

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X

4 UNITED STATES OF AMERICA, : 07-404 (SJ)
5 v. : U.S. Courthouse
6 : Brooklyn, New York
7 EDUARD YUSUPOV, :
8 : September 15, 2008
9 Defendant. : 9:30 a.m.

10 - - - - - X

11 TRANSCRIPT OF TRIAL
12 BEFORE THE HONORABLE STERLING JOHNSON, JR
13 UNITED STATES DISTRICT JUDGE, and a jury.

14 APPEARANCES:

15 For the Government: BENTON J. CAMPBELL
16 United States Attorney
17 By: WILLIAM P. CAMPOS
18 Assistant U.S. Attorney
19 271 Cadman Plaza East
20 Brooklyn, New York 11201

21 For the Defendant: ALBERT DAYAN, ESQ.

22 Court Reporter: Burton H. Sulzer
23 225 Cadman Plaza East
24 Brooklyn, New York 11201
25 (718) 260-4526
Fax # (718) 260-4504

Proceedings recorded by mechanical stenography, transcript
produced by CAT.

1 (Open court-case called.)

2 THE COURT: I am looking at your witness list.

3 You're not call of these people, are you?

4 MR. CAMPOS: No, your Honor. Those are the names of
5 individuals that may come up during the trial.

6 MR. DAYAN: I haven't seen that.

7 THE COURT: It's on ECF. I will make a copy for
8 you. I have granted the motion in limine.

9 MR. CAMPOS: On the 404(b), your Honor?

10 THE COURT: Yes.

11 MR. DAYAN: I don't know if your Honor is aware --
12 I'm not sure if my response mentioned it -- the defendant was
13 not arrested in Arizona, he was detained and the case was
14 dismissed and there wasn't --

15 THE COURT: I'm aware of it.

16 MR. DAYAN: Really it's such a far distance between
17 him being detained and him selling counterfeit currency in New
18 York, Judge.

19 THE COURT: If you have an adverse decision, you
20 have an issue on appeal.

21 MR. DAYAN: Thank you.

22 MR. CAMPOS: Thank you, your Honor.

23 THE COURT: You will find that if there is nothing
24 else, I can make a decision. It might not always be right but
25 I'll make a decision. That is my decision.

1 MR. DAYAN: Yes, your Honor.

2 THE COURT: We will wait for the clerk. How long is
3 your case going to be?

4 MR. CAMPOS: I am hoping to end my case by
5 Wednesday. I have several witnesses. I suspect that I will
6 have at least nine witnesses. Mr. Dayan and I will make
7 efforts to see if we can have some stipulations that might
8 obviate the need for all of them.

9 THE COURT: How long is your case going to be?

10 MR. DAYAN: Maybe half a day, Judge.

11 THE COURT: What we will do, we will pick the jury
12 and get openings today.

13 MR. CAMPOS: I have witnesses available from Arizona
14 ready to testify.

15 THE COURT: We will get them on today. You can
16 bring them up.

17 (Pause.)

18 MR. DAYAN: In your jury questionnaire, Judge, there
19 is no question about whether anyone is related or has been in
20 law enforcement.

21 THE COURT: I do that.

22 MR. DAYAN: Is it possible --

23 THE COURT: What happens is, I do that and these are
24 the general questions. These are the specific personal
25 questions after I get through. Then they answer these

1 questions.

2 MR. DAYAN: In your Honor's decision, you state:
3 Out of an abundance of caution this court will also issue a
4 limiting instruction to restrict the jurors' consideration to
5 the evidence for the purpose for which it is offered.

6 When does your Honor do that, if I may ask, at the
7 time the evidence is presented or the time --

8 THE COURT: When the evidence is presented. All
9 they have to do is address the issues that are in the
10 indictment.

11 MR. DAYAN: With that instruction that I just read
12 to your Honor, since the conspiracy is charged within the time
13 when that incident in Arizona took place, does your
14 instruction go so far as to instruct the jury, for example,
15 that even if they believe that the defendant had possessed
16 counterfeit currency with intent in Arizona that that is not
17 the type of relevant conduct --

18 THE COURT: I'm going to tell them that he's not
19 being charged with that offense in Arizona. The only thing
20 he's being charged with is conspiracy, and the government has
21 to prove beyond a reasonable doubt that he committed
22 conspiracy -- and I will elaborate later on -- within that
23 period of time.

24 That he had not been -- I don't know if he had been
25 arrested or not, but he has not been convicted of that

1 particular crime.

2 MR. DAYAN: I see.

3 THE COURT: Theoretically, that could be an overt
4 act whether it's charged or not, but it is not an overt act.

5 MR. DAYAN: I guess I chose a poor phraseology.

6 THE COURT: I understand.

7 MR. DAYAN: Could it be considered an overt act in
8 furtherance of the conspiracy?

9 THE COURT: I think it can, but it's not being
10 charged.

11 MR. DAYAN: So that means the jury cannot rely on it
12 as an overt act?

13 THE COURT: You'll get the limiting instructions.
14 He's not being charged with that particular deed. The
15 government says it is for motive, intent -- what else?

16 MR. CAMPOS: You're correct, motive, intent.

17 THE COURT: That's what it is being offered for.
18 How long is your opening going to be?

19 MR. CAMPOS: Your Honor, my opening is 15 minutes
20 maximum.

21 THE COURT: Yours?

22 MR. DAYAN: The same.

23 THE COURT: We will probably get some witnesses in
24 today.

25 (Pause.)

1 (Prospective jurors present.)

2 THE COURT: Swear the panel, please.

3 (Prospective jurors search warrant.)

4 THE COURT: Seat the first 28.

5 THE CLERK: Please come up as I call your name.

6 Juling Mak. Darlene McMorris. Blanca Jordan.

7 Shahenaz Nassef. Roland Aviles. John Kupres. Taranpatie

8 Seetaram. Fai Kwok Leung. Latchmin Haniff. Lois Tendler.

9 Noreen Sweeney. Mohammed Khan. Lillie Thomas. Kathleen

10 Mulholland. Catherine Cartolano. Betty Gilbert. Carmen

11 Cogles. Cheryl Smith. Alexander Delagana. Ann Vacante.

12 Dianna Lello. Carl Ciaccio. Conrod Mascoll. Adele Daras.

13 Eunice Skelly. Josephine Cracchiolo. Emily Axel. Leon

14 Benisrael.

15 THE COURT: Remember your numbers, ladies and
16 gentlemen. Everything that is done here will be taken down by
17 the court reporter. If I ask you a question and you have to
18 speak, please give your number.

19 Ladies and gentlemen, I would like to introduce
20 myself. My name is Judge Johnson. I am a judge here in the
21 Eastern District of New York, and the Eastern District is
22 comprised of five counties or boroughs, Brooklyn, Queens,
23 Staten Island, or Richmond, Suffolk and Nassau Counties, and
24 we are here to select a jury in a criminal case. The case
25 should take no longer than 3 or 4 days.

1 I'm going to be giving you some basic principles.
2 First of all, we are here because of an indictment. The
3 government has accused the defendant of having committed a
4 crime, and they do so by getting an indictment. An indictment
5 is a piece of paper, it is not evidence in the case. The
6 government must prove that the defendant committed those
7 crimes beyond a reasonable doubt. An indictment is not
8 evidence in the case.

9 Now, the question is, what kind of crime is the
10 defendant accused of having committed? First is count one of
11 the indictment. It is a conspiracy to deal in counterfeit
12 currency, that the defendant and others agreed to violate the
13 law in dealing in counterfeit currency.

14 Count two is on or about and between June 2006 and
15 July of 2006, that the defendant actually dealt in counterfeit
16 currency; and, count three, on or about July 24th, the
17 defendant actually dealt in counterfeit currency.

18 You will get copies of the indictment. Remember, as
19 I said before, it is not evidence in this case.

20 What will determine whether the defendant is found
21 guilty or not guilty is what I say is evidence. What is
22 evidence? Evidence is the sworn testimony of witnesses who
23 will take the stand and whatever exhibits I allow in.

24 For that reason whatever the lawyers say, whatever
25 the prosecutor says is not evidence because he's not taking

1 the stand. Whatever defense counsel says is not evidence, and
2 even what I say is not evidence. The case stands or falls on
3 sworn testimony and the exhibits that I choose to allow.

4 Now, first of all, let me ask you a couple of
5 questions. If you do respond don't forget your number.

6 The defendant's name is Edward Yusupov.

7 Will you stand Mr. Yusupov.

8 Does anyone know Mr. Yusupov?

9 He is represented by Mr. Albert Dayan. Does anybody
10 know Mr. Dayan?

11 I am terrible on names, I warn you. I have two
12 daughters and I forget my daughters' names so don't feel bad.
13 The government is represented by Mr. Campos.

14 Does anybody know Mr. Campos?

15 You know Mr. Campos?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: You are No. 14.

18 How do you know Mr. Campos?

19 THE PROSPECTIVE JUROR: We were formerly colleagues.

20 I am an attorney and he and I used to work together.

21 THE COURT: You are an attorney?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Let me ask you this. Will that impair
24 your ability to deliberate fairly and impartially in this case
25 if you were chosen as a juror in this case?

1 THE PROSPECTIVE JUROR: I am concerned that it
2 would, your Honor. I've known Mr. Campos for awhile, so, yes.

3 THE COURT: I won't ask you your opinion.

4 THE PROSPECTIVE JUROR: I have nothing but the
5 highest regard for Mr. Campos.

6 THE COURT: All right. Any objection to her being
7 accused?

8 MR. DAYAN: No objection.

9 THE COURT: Thank you very much. We will put you on
10 another jury.

11 THE CLERK: Juror No 14 is now Joseph Opoczynski.

12 THE COURT: Mr. Opoczynski, have you read my
13 questions?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Any response to any of them?

16 THE PROSPECTIVE JUROR: I don't know anyone.

17 THE COURT: You don't know Mr. Campos?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Now, seated the at the table with Mr.
20 Campos is Special Agent Jeffrey Golaszewski from the United
21 States Secret Service.

22 Does anybody know Mr. Golaszewski?

23 The United States Attorney for the Eastern District
24 of New York is a man by the name of Mr. Benton Campbell. Does
25 anybody know Mr. Benton Campbell or anybody in his office?

1 Does anybody know anyone in the Secret Service, FBI,
2 or any law enforcement agency?

3 THE PROSPECTIVE JUROR: No. 4. Yes. My husband is
4 a police officer.

5 THE COURT: New York City police officer?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: Where does he work?

8 THE PROSPECTIVE JUROR: Brooklyn Highway 2.

9 THE COURT: The fact that he is a law-enforcement
10 officer, would that impair your ability to deliberate fairly
11 and impartially in this case if you were chosen --

12 THE PROSPECTIVE JUROR: I'm not sure. We talk often
13 about his cases.

14 THE COURT: The other thing I have to admonish
15 everyone on is that if you are chosen as a juror, you will not
16 be able to discuss this case with anyone, not with your
17 husband, your wife, your boyfriend, your girlfriend,
18 significant others, you cannot even discuss it among
19 yourselves until the case is all over and then I say now you
20 can discuss it among yourselves.

21 Could you do that?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: All right.

24 There are a number of people whose names will be
25 coming during this trial, they will be mentioned, and I'd like

1 to know whether you know any of these people.

2 You heard the name and he stood up, Mr. Jeffrey
3 Golaszewski.

4 Nicholas Antila. Kang Lee. Ryan Mahar. William
5 Glenn. Kelley Harris. John Morgan. David Alvarado. Richard
6 Burkmeir. David Eagal. Thomas Wilkins. Guillermo Figueroa.
7 Andrey Beburishvili. Susan Johnson. Renada Lewis. Andrea
8 Lopez. Vyacheslav Sal Falevich. Yakub Yusupov. Iouri
9 Manessi. Rodion Babaisakov. David Shimunov. Arkadiy
10 Bangiyev. Radj Yusupov. William Dinkin. Exotic Auto Sales.
11 Bellat Enterprises. Skin Cabaret in Scottsdale, Arizona.

12 As I said before, the defendant has pled not guilty
13 and under our laws he is presumed to be innocent. That
14 presumption will last with him throughout this trial unless or
15 until, after hearing all of the evidence, you determined
16 beyond a reasonable doubt that the government has proven the
17 allegations against this defendant.

18 Let me ask you, do you have any friends or relatives
19 who work in the Department of Treasury, FBI, law enforcement,
20 NYPD?

21 THE PROSPECTIVE JUROR: Number 25. My stepson is a
22 New York City police officer.

23 THE COURT: Where does he work?

24 THE PROSPECTIVE JUROR: The Real-Time crime Center
25 in Manhattan.

1 THE COURT: The what?

2 THE PROSPECTIVE JUROR: Real-Time Crime Center.

3 THE COURT: He's the fellow who watches the
4 computers?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Would this impair your ability to
7 deliberate fairly and impartially in this case if you were
8 chosen?

9 THE PROSPECTIVE JUROR: I don't think so.

10 THE COURT: Next.

11 THE PROSPECTIVE JUROR: 13. I work as a school
12 crossing guard.

13 THE COURT: The fact that you work for the Police
14 Department, would this impair your ability to deliberate
15 fairly and impartially in this case if you were chosen?

16 THE PROSPECTIVE JUROR: No.

17 MR. DAYAN: What number is the lady?

18 THE COURT: She said 13.

19 MR. DAYAN: Thank you.

20 THE PROSPECTIVE JUROR: Number 6. I have an
21 acquaintance that is a New York City police officer. I don't
22 know where he works.

23 THE COURT: Would that impair your ability to
24 deliberate fairly and impartially in this case if you were
25 chosen?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Do you previously or presently have any
3 dispute or claim against the United States government?

4 Have you or anyone in your family been the victim of
5 a crime or accused of a crime?

6 THE PROSPECTIVE JUROR: Number 8. I used to run a
7 grocery store. Occasionally I do receive counterfeit currency
8 and Secret Service gave me a business card.

9 THE COURT: Where was your store?

10 THE PROSPECTIVE JUROR: Savannah, Georgia.

11 THE COURT: How long ago has it been?

12 THE PROSPECTIVE JUROR: Say 15, 16 years ago.

13 THE COURT: Would that impair your ability to
14 deliberate fairly and impartially in this case if you were
15 chosen?

16 THE PROSPECTIVE JUROR: I think I got an opinion on
17 that.

18 THE COURT: You have an opinion?

19 THE PROSPECTIVE JUROR: Yes. Because occasionally,
20 yes, we do receive counterfeit currency.

21 MR. DAYAN: No objection.

22 THE COURT: Mr. Campos?

23 MR. CAMPOS: No objection, your Honor.

24 THE COURT: All right. We will select you for
25 another jury.

1 THE PROSPECTIVE JUROR: So I can go?

2 THE COURT: You'll go back downstairs.

3 THE PROSPECTIVE JUROR: Thank you.

4 (Excused.)

5 THE CLERK: Thor Kongvold.

6 THE COURT: Have you heard my questions?

7 THE PROSPECTIVE JUROR: Yes, I have.

8 THE COURT: Any responses to any of them?

9 THE PROSPECTIVE JUROR: I think I can deliberate
10 fairly.

11 THE COURT: Do you have any friends, relatives who
12 work in law enforcement?

13 THE PROSPECTIVE JUROR: No, I do not.

14 THE COURT: You don't know any of the people's names
15 that I mentioned?

16 THE PROSPECTIVE JUROR: I do not.

17 THE COURT: All right.

18 Have any of you studied in law school?

19 THE PROSPECTIVE JUROR: Yes. Number ten.

20 THE COURT: Where did you study?

21 THE PROSPECTIVE JUROR: Northeastern law school.

22 THE COURT: You're a lawyer?

23 THE PROSPECTIVE JUROR: Not practicing.

24 THE COURT: When did you go to law school?

25 THE PROSPECTIVE JUROR: I graduated in 1981 from

1 Northeastern.

2 THE COURT: What are you doing now?

3 THE PROSPECTIVE JUROR: In charge of community
4 relations at the Transit Authority.

5 THE COURT: For the Transit Authority?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: The fact that you are a lawyer, would
8 that impair your ability to deliberate fairly and impartially
9 in this case if you were chosen?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: As I said before, before you can find
12 the defendant guilty, you must find from the evidence that he
13 has been proven guilty beyond a reasonable doubt. Is there
14 any reason why you cannot do this?

15 Do you know of any reason why you may be prejudiced
16 for or against the defendant or the government because of the
17 nature of the offenses charged or for any other reason?

18 If you were the defendant charged with the same
19 offense, or if you were the United States Attorney with the
20 responsibilities to prosecute, do you know of any reason why
21 you would not be content to have your case tried by someone in
22 the same frame of mind as you?

23 Is there any reason why you could not be fair and
24 impartial?

25 Now, you have on your seats a list of questions.

1 I'd like you to begin by reading the first question and go
2 down to the end. When they ask for place of residence, I
3 don't want the address, I want you to say, I live in Borough
4 Park, Brooklyn, or I live in Forest Hills, Queens, and how
5 long you have lived there.

6 Let's begin with you.

7 THE PROSPECTIVE JUROR: I'm number 27. I live in
8 Astoria, New York. I've lived for five years.

9 THE COURT: Where did you live before?

10 THE PROSPECTIVE JUROR: I lived in Brooklyn a year
11 before that, and Manhattan for four years before that. I am a
12 social worker. I work for the Stanley Isaacs Senior Center.

13 THE COURT: What do you do as a social worker for
14 that center?

15 THE PROSPECTIVE JUROR: I provide social services to
16 our members, who are all 60 years and older, mostly benefits
17 assistance, housing problems, that sort of thing.

18 I do have a significant other. He is a musician and
19 a sales manager during the day. I don't have any children. I
20 got my bachelor's from New York University and my masters in
21 social work from Hunter College.

22 I've never served on a jury before. I've never been
23 a grand juror. I've never been involved in a criminal case
24 and I don't know of any reason that I couldn't be impartial
25 and follow the court's instructions.

1 THE COURT: Thank you very much.

2 Next.

3 THE PROSPECTIVE JUROR: 29. I live in Borough Park
4 from 1981 till now, New York. I am jewelry designer.

5 THE COURT: Jewelry designer?

6 THE PROSPECTIVE JUROR: Right.

7 THE COURT: Who are you employed by?

8 THE PROSPECTIVE JUROR: LB jewelers.

9 THE COURT: All right.

10 THE PROSPECTIVE JUROR: I have children, one of them
11 married, one of them with me. He is salesman jewelry.

12 THE COURT: Are you married?

13 THE PROSPECTIVE JUROR: No. Divorced.

14 THE COURT: What does your ex-wife do for a living?

15 THE PROSPECTIVE JUROR: It's been many years ago. I
16 really don't know.

17 THE COURT: You don't know. All right. You said
18 you had two adult children?

19 THE PROSPECTIVE JUROR: Right. One of them married,
20 one single.

21 THE COURT: What do they do?

22 THE PROSPECTIVE JUROR: Jewelry salesman.

23 THE COURT: Both of them?

24 THE PROSPECTIVE JUROR: No. My daughter she doesn't
25 work. But the son is jewelry salesman.

1 THE COURT: Okay. What kind of schooling have you
2 had?

3 THE PROSPECTIVE JUROR: High school and Yeshiva.

4 THE COURT: Where did you go to school?

5 THE PROSPECTIVE JUROR: In Israel.

6 THE COURT: Have you ever sat on a jury before?

7 THE PROSPECTIVE JUROR: Yes, grand jury.

8 THE COURT: Grand jury?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: State or federal?

11 THE PROSPECTIVE JUROR: State.

12 THE COURT: How long ago was that?

13 THE PROSPECTIVE JUROR: Approximately over two
14 years.

15 THE COURT: Two years ago?

16 THE PROSPECTIVE JUROR: Yes. Could be three years.
17 I don't remember.

18 THE COURT: Was it Brooklyn, Queens, where?

19 THE PROSPECTIVE JUROR: Brooklyn.

20 THE COURT: Have you ever been involved in a
21 criminal case as a complainant, defendant or witness?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Is there any reason why you could not
24 listen to the evidence, follow the court's instructions, my
25 instructions, and then be fair and impartial?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Can you be fair and impartial? Can you
3 listen to the evidence --

4 THE PROSPECTIVE JUROR: Yes, I can listen.

5 THE COURT: Follow what I tell you to do?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: And then be fair and impartial, can you
8 do that?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: All right. Next.

11 THE PROSPECTIVE JUROR: 19. I live in Floral Park
12 for 22 years. My occupation is receiving supervisor, Memorial
13 Sloan-Kettering Cancer Center.

14 THE COURT: Don't talk so fast because everything
15 that everybody says about this case is being taken by the
16 court reporter and he's very good but don't make his job
17 difficult.

18 THE PROSPECTIVE JUROR: I am married. I got two
19 kids. They are not adults yet, they are still in school.

20 THE COURT: How old are your children?

21 THE PROSPECTIVE JUROR: One 19 and one 22.

22 THE COURT: What do they do?

23 THE PROSPECTIVE JUROR: Still in school.

24 THE COURT: What?

25 THE PROSPECTIVE JUROR: In school. College.

1 THE COURT: Yes.

2 THE PROSPECTIVE JUROR: I have part college and part
3 vocational and I never sit on a jury before. Never been a
4 grand juror. Never been involved in any criminal cases and I
5 have no reason to be fair and impartial.

6 THE COURT: Let me ask you, are you married?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: What does your wife do?

9 THE PROSPECTIVE JUROR: She work in real estate.

10 THE COURT: Where?

11 THE PROSPECTIVE JUROR: In real estate.

12 THE COURT: What is your occupation?

13 THE PROSPECTIVE JUROR: Receiving supervisor.

14 THE COURT: For what company?

15 THE PROSPECTIVE JUROR: Memorial Sloan-Kettering
16 Hospital.

17 THE COURT: Could you listen to the evidence, follow
18 my instructions as to the law, and then be fair and impartial?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: Thank you. Next.

21 THE PROSPECTIVE JUROR: Number 20. I live in Staten
22 Island for 17 years. I'm a secretary at Hughes Hubbard and
23 Reed, a law firm. I am not married. I have two children, one
24 in college. I have high school. Never sat for a jury. Never
25 been on a grand jury. Never been involved in a criminal case.

1 There is no reason that I cannot listen to the evidence and
2 follow your instructions.

3 THE COURT: Next.

4 THE PROSPECTIVE JUROR: 21. I live in Lake
5 Ronkonkoma. My occupation is a CNA --

6 THE COURT: CNA?

7 THE PROSPECTIVE JUROR: Certified nursing assistant.

8 THE COURT: Yes.

9 THE PROSPECTIVE JUROR: I have a significant other.
10 He's an architect, works for a super structure here in
11 Manhattan. I have one grown child. He serves in the United
12 States Navy. My schooling was high school. I have been on a
13 jury for both civil and criminal.

14 THE COURT: How long ago?

15 THE PROSPECTIVE JUROR: Civil has been a few years
16 and criminal is about over three.

17 THE COURT: State or federal?

18 THE PROSPECTIVE JUROR: State.

19 THE COURT: Now, you said criminal and civil?

20 THE PROSPECTIVE JUROR: Correct.

21 THE COURT: Did they come to a resolution?

22 THE PROSPECTIVE JUROR: One settled out of court,
23 that was civil, and the other was settled by verdict, criminal
24 verdict.

25 THE COURT: All right.

1 THE PROSPECTIVE JUROR: Grand jury, no.

2 THE COURT: Read the question.

3 THE PROSPECTIVE JUROR: Have you ever been on a
4 grand jury? No. Have you ever been involved in a criminal
5 case as -- I was on a jury. Number eight and number nine, I
6 have no reason why I can't come to a decision.

7 THE COURT: You could be fair and impartial?

8 THE PROSPECTIVE JUROR: Sure.

9 THE COURT: All right.

10 THE PROSPECTIVE JUROR: Number 22. I live in
11 Oakwood, Staten Island past 7 years. I am a special education
12 teacher assigned to the Committee on Special Education in
13 District 31, that is in Staten Island. My employee is New
14 York City Department of Education.

15 I am married, I have two sons. My wife works as a
16 chef part-time and a sales representative.

17 THE COURT: She works as a chef and a sales
18 representative?

19 THE PROSPECTIVE JUROR: Yes, she has two jobs.

20 My children are not adults, they are both full-time
21 students.

22 I have a master's degree in special education and
23 masters in administration and supervision.

24 I have never sat on a jury before. I have never
25 been a grand juror. I have never been involved in a criminal

1 case as a complainant, defendant or witness or in any other
2 way. There is no reason why I can't listen to the evidence,
3 follow the court's instructions as to the law and render a
4 fair and impartial verdict.

5 THE COURT: Thank you very much.

6 THE PROSPECTIVE JUROR: I'm number 23. I live in
7 East Flatbush Brooklyn for 19 years. I do carpentry.

8 THE COURT: You are a carpenter?

9 THE PROSPECTIVE JUROR: Excuse me.

10 THE COURT: You said you are a carpenter?

11 THE PROSPECTIVE JUROR: Yeah.

12 THE COURT: Who do you work for?

13 THE PROSPECTIVE JUROR: Salvation Army. I'm
14 married. I have four adult kids.

15 THE COURT: What does your wife do?

16 THE PROSPECTIVE JUROR: Nanny.

17 THE COURT: Pardon me?

18 THE PROSPECTIVE JUROR: A nanny.

19 (Non-I is right: I have four adult kids. I never
20 have been a juror before. I've never sat on a civil case.

21 THE COURT: Have you ever been involved in a
22 criminal case as a complainant, defendant or witness?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Is there any reason why you could not
25 listen to the evidence, follow my instructions and render a

1 fair and impartial verdict?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Can you do that, can you be fair and
4 impartial?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: All right. Next.

7 THE PROSPECTIVE JUROR: Number 24. I've lived in
8 Gravesend Brooklyn for 31 years. I'm a paraprofessional and I
9 work for the Board of Education, 1-to-1 Para. And I'm not
10 married. My husband is deceased. I have one adult child
11 29-years-old. He's a resident doctor.

12 THE COURT: Where does he work?

13 THE PROSPECTIVE JUROR: He works at Stony Brook
14 Hospital, Long Island. I have a BA at Brooklyn College in
15 history. I never sat on a jury, never was a grand juror,
16 never sat for a criminal case. There is no reason why I can't
17 listen to the evidence and the court's instructions as to the
18 law and render a fair and impartial verdict.

19 THE COURT: Thank you very much. Next.

20 THE PROSPECTIVE JUROR: Number 25. I live in
21 Smithtown, New York and have for 15 years. I am an
22 association executive. I work for the Medical Society of the
23 State of New York.

24 My husband is retired printer and mailer. He also
25 worked for the Medical Society of the State of New York. We

1 have two adult -- he has two adult children, I have two
2 stepsons. One is a city police officer, the other is a
3 carpeting sales supervisor. I have a BA in English. I have
4 sat on a jury before.

5 THE COURT: How long ago?

6 THE PROSPECTIVE JUROR: I sat on three juries. The
7 most recent was about ten years ago, I would say.

8 THE COURT: Was it state or federal?

9 THE PROSPECTIVE JUROR: State.

10 THE COURT: Was it criminal or civil?

11 THE PROSPECTIVE JUROR: Criminal.

12 THE COURT: Did it come to a resolution?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: All right. Next.

15 THE PROSPECTIVE JUROR: I've never been a grand
16 juror. I've never been involved in a criminal case as a
17 complainant, defendant or witness or in any other way and
18 there is no reason why I couldn't listen to the evidence,
19 follow instructions as to the law and render a fair and
20 impartial verdict.

21 THE COURT: Thank you. Next.

22 THE PROSPECTIVE JUROR: Number 26. I've lived in
23 Massapequa, New York for 11 years. My occupation is secretary
24 at Malloy College for the IT department, director of IT.

25 I am married. My husband's occupation is bakery, he

1 owns a bakery. I have two children. They are both adults.
2 One is a teacher at a private school in Brooklyn, he's a math
3 teacher, and the other one is at Farmingdale State University
4 and he works as a baker also as his father. He's 21.

5 I have -- I finished high school, got a diploma. No
6 for jury, no for criminal case and no for grand juror. I did
7 work up until May for J.P. MorganChase as a teller, being that
8 I had to deal with money, and I could listen to the evidence
9 and hopefully I could be impartial.

10 THE COURT: When you say "hopefully," can you be
11 fair and impartial?

12 THE PROSPECTIVE JUROR: I believe so.

13 THE COURT: All right. We will begin with number
14 one over here?

15 THE PROSPECTIVE JUROR: I am number 1.

16 THE COURT: Keep your voice up.

17 THE PROSPECTIVE JUROR: I'm number one. I live in
18 Brooklyn for 20 years. I am a supervisor in a hotel.

19 THE COURT: What hotel?

20 THE PROSPECTIVE JUROR: The Lombardi Hotel.

21 THE COURT: Lombardi?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR: I am married. I have two
25 children. They are students.

1 THE COURT: What does your husband do?

2 THE PROSPECTIVE JUROR: He is a partner of a
3 restaurant.

4 THE COURT: He's a what?

5 THE PROSPECTIVE JUROR: Owner of a restaurant. I
6 have never been juror. I have not been on jury or grand jury.
7 The only reason I may not be able to listen to evidence, maybe
8 I think my English is not good enough.

9 THE COURT: How long have you been in this country?

10 THE PROSPECTIVE JUROR: 20 years. I have never
11 been -- I can understand most of them, yes.

12 THE COURT: Can you understand English?

13 THE PROSPECTIVE JUROR: Yes. But only some
14 professional words, some hard words I don't understand, that's
15 all. But most of them, yes, I do.

16 THE COURT: Do you have any problems?

17 MR. DAYAN: I don't see any problems.

18 THE COURT: During the course of the trial, if there
19 is a word or a phrase that you don't understand, raise your
20 hand and I'll have the lawyers explain it to you, or the
21 witness explain it to you.

22 THE PROSPECTIVE JUROR: Okay.

23 THE COURT: All right.

24 THE PROSPECTIVE JUROR: I'm number 2. I've lived in
25 Suffolk County for my whole life.

1 THE COURT: 20 years?

2 THE PROSPECTIVE JUROR: Yes. My occupation is a
3 sales representative and my employer is Verizon. I am
4 unmarried. I have two adult children. My daughter is a
5 stay-at-home-mom and my son is the manager of a sporting goods
6 store.

7 My schooling, I completed Empire State College with
8 a bachelor of science in psychology. I have never sat on a
9 jury before. I have been a grand juror about 7 years ago in
10 Suffolk County. I've never been in a criminal case as a
11 complainant, defendant or witness or in any other way.

12 There is no reason why I can't listen to evidence
13 and follow the court's instructions and render a fair and
14 impartial verdict.

15 THE COURT: Thank you very much. Next.

16 THE PROSPECTIVE JUROR: I'm number three. I've
17 lived in Freeport, Long Island, New York for 19 years. My
18 occupation is an accounts manager with Variety Accessories,
19 LLC.

20 THE COURT: You're an account manager for who?

21 THE PROSPECTIVE JUROR: Variety Accessories. I'm
22 married. My husband's occupation is a mechanic at Kennedy
23 Airport. I have two children. One 22, he's an environmental
24 engineer and a 16-year-old boy in high school.

25 I have high school education and some college in New

1 York. I never sat on a jury before. I never been a grand
2 juror. I never been involved in any criminal case. I never
3 been a defendant or witness and I don't see any reason I will
4 have any problems, except sometimes following like the
5 terminology used in a trial.

6 THE COURT: I'll give you the same admonition I gave
7 Juror No. 1. You will raise your hand if there is something
8 you don't understand?

9 THE PROSPECTIVE JUROR: Okay.

10 THE COURT: Next.

11 THE PROSPECTIVE JUROR: Number 4. I've lived in
12 Staten Island for the past 13 years. I'm a free-lance
13 journalist. I don't work for any particular paper. My
14 husband is a police lieutenant in the NYPD. I don't have any
15 adult children.

16 THE COURT: Where does he work in the Police
17 Department?

18 THE PROSPECTIVE JUROR: Currently he works as a
19 highway patrol officer.

20 THE COURT: You said that. All right.

21 THE PROSPECTIVE JUROR: Previously he was working in
22 Park Slope and before that in Manhattan.

23 THE COURT: All right.

24 THE PROSPECTIVE JUROR: I've never sat on a jury or
25 grand jury. I've never been involved in a criminal case.

1 There is no reason I can't listen to the evidence, but I have
2 been the victim of counterfeit.

3 THE COURT: You have been?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: How long ago has that been?

6 THE PROSPECTIVE JUROR: My parents own a wholesale
7 business where they deal in a lot of cash and I occasionally
8 help them out with bookkeeping and we received several
9 counterfeit hundred dollar bills that the bank took away from
10 us.

11 THE COURT: I said how long ago was that?

12 THE PROSPECTIVE JUROR: I'm sorry. Within the last
13 two years.

14 THE COURT: The fact that you have had this
15 experience, would that impair your ability to deliberate
16 fairly and impartially in this case if you were chosen?

17 THE PROSPECTIVE JUROR: If I were the defendant, I
18 wouldn't want me on the jury.

19 THE COURT: I guess that answers your question.
20 What we will do is, we will send you back down to the clerk's
21 office and we will send you to another jury.

22 (Excused.)

23 THE CLERK: Polina Belomlinskaya, number four.

24 THE COURT: Have you heard my questions?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: Any responses?

2 THE PROSPECTIVE JUROR: I have gone to law school.
3 I work in a law firm, not an attorney though, and --

4 THE COURT: What law school?

5 THE PROSPECTIVE JUROR: St. John's Law School. And
6 I have been the victim of a crime. I have testified in front
7 of a grand jury in state court.

8 THE COURT: How long ago was that?

9 THE PROSPECTIVE JUROR: The crime was about six
10 years ago, a mugging, so it had nothing to do with money --
11 well, it had to do with money, but nothing to do with
12 counterfeit. Should I answer the other questions?

13 THE COURT: Answer all the questions.

14 THE PROSPECTIVE JUROR: I've lived in Jackson
15 Heights, Queens for the last 14 years. As I said, I work in a
16 law firm as a paralegal.

17 THE COURT: What law firm?

18 THE PROSPECTIVE JUROR: Calvin Boody and Hauptman,
19 intellectual property law. I'm not married, I have no
20 children. I have a bachelor's degree in English literature
21 and philosophy and --

22 THE COURT: You have what?

23 THE PROSPECTIVE JUROR: Bachelor's degree in English
24 literature and philosopher and I almost finished law school.

25 I haven't sat on a jury before but, as I said, I did

1 testify in front of the grand jury so I was kind of a
2 complainant, but that case was settled.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: I don't know if there is any
5 reason why I couldn't, other than that I have had several
6 panic disorders so -- I don't think that would actually impact
7 my ability to judge the case.

8 THE COURT: You do have medication for it?

9 THE PROSPECTIVE JUROR: I do, yeah.

10 THE COURT: Will that impact on your ability to be
11 fair and impartial if you were chosen?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: All right. Next.

14 THE PROSPECTIVE JUROR: Number five. I lived in
15 Brooklyn for six years. I'm a senior associate at Royal Bank
16 of Scotland.

17 I am single, no significant other, no children. I
18 have a bachelor's degree. I sat on a jury before. It was a
19 criminal case. The case went to verdict about three years
20 ago.

21 THE COURT: State or federal?

22 THE PROSPECTIVE JUROR: State court. I've never
23 been a grand juror. I have never been involved in a criminal
24 case as a complainant, defendant or witness.

25 There is no reason why I could not listen to

1 evidence, follow the court's instructions and render an
2 impartial verdict.

3 THE COURT: All right. Next.

4 THE PROSPECTIVE JUROR: Number six. I've live in
5 Lindenhurst for 46 years. I'm a routeman for Tuscan Dairies.
6 My wife -- I'm married, she's a bookkeeper. I have no adult
7 children. I have two minor children, 16 and 13. High school.

8 THE COURT: What high school did you go to?

9 THE PROSPECTIVE JUROR: Lindenhurst. I never sat on
10 a jury before. I never sat on a grand juror before. I was
11 never involved in a criminal case and there is no reason why I
12 couldn't listen to the evidence and follow the court's
13 instructions as to the law and render a fair and impartial
14 verdict.

15 THE COURT: Thank you very much.

16 THE PROSPECTIVE JUROR: Number 7. I've lived in
17 Queens, New York for --

18 THE COURT: Keep your voice up.

19 THE PROSPECTIVE JUROR: Number 7. I live in Queens,
20 New York for the past 22 years. I work for Life Hire as a
21 rehab aide. My former occupation was a nanny. I am married.
22 My husband works for Village Club of Sands Point as a manager.
23 I have one grown child 24. I attended college.

24 THE COURT: What college?

25 THE PROSPECTIVE JUROR: I went to a college in

1 Guyana. Never sat on a jury before. I wasn't grand juror.
2 Never served in a criminal case and there is no reason why I
3 could not listen to the evidence, follow the court's
4 instructions as to the law and render a fair and impartial
5 verdict.

6 THE COURT: All right. Thank you.

7 THE PROSPECTIVE JUROR: Number eight. I've lived in
8 Staten Island 21 years. My occupation is a senior production
9 technician for Consolidated Edison.

10 I am married. My wife is a licensed practical nurse
11 for On Your Mark in Sunrise in Staten Island. I have three
12 adult children. One is a produce broker in Scranton, the
13 other one is a cable technician in Brooklyn, and my daughter
14 is a speech therapist.

15 My schooling is high school. I've sat on a state
16 criminal case that was probably over 21 years ago.

17 THE COURT: State or federal?

18 THE PROSPECTIVE JUROR: It was state. And I served
19 as a grand juror. That was probably about 8, 9 years ago.

20 THE COURT: State or federal?

21 THE PROSPECTIVE JUROR: Federal.

22 THE COURT: In this building?

23 THE PROSPECTIVE JUROR: Yes. Well, actually next
24 door.

25 THE COURT: This is a brand-new building, ladies and

1 gentlemen.

2 THE PROSPECTIVE JUROR: They shipped us over there
3 across the street. I've never been involved in a criminal
4 case as a complainant, defendant or witness or in any other
5 way.

6 There is no reason why I can't listen to the
7 evidence and follow the court's instructions as to the law.

8 THE COURT: Thank you very much.

9 Next.

10 THE PROSPECTIVE JUROR: I'm number nine. I'm
11 married, I have two children. I live in Brooklyn, Park Slope,
12 for 31 years.

13 Judge, I don't have any glasses so I can't read the
14 questions. Sorry.

15 THE COURT: I will read them to you.

16 THE PROSPECTIVE JUROR: I am a jewelry pattern
17 maker.

18 THE COURT: Jewelry maker?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: What does your husband do?

21 THE PROSPECTIVE JUROR: He's a bookkeeper, but he's
22 not working right now.

23 THE COURT: Do you have any children?

24 THE PROSPECTIVE JUROR: Yes, two, my son is in
25 Florida, and my daughter is-

1 THE COURT: Keep your voice up.

2 THE PROSPECTIVE JUROR: My daughter is in Manhattan
3 jewelry and my son is in Florida in jewelry.

4 THE COURT: How old is your son?

5 THE PROSPECTIVE JUROR: My son is 20 and my daughter
6 is 21.

7 THE COURT: How much schooling have you had?

8 THE PROSPECTIVE JUROR: Elementary.

9 THE COURT: Where did you go to school?

10 THE PROSPECTIVE JUROR: Trinidad.

11 THE COURT: Have you ever sat on a jury before?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Have you ever been a grand juror?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Have you ever been involved in a
16 criminal case as a complainant, defendant or witness?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Is there any reason why you could not
19 listen to the evidence, follow my instructions as to the law,
20 and then render a fair and impartial verdict?

21 THE PROSPECTIVE JUROR: Yes, I can.

22 THE COURT: Thank you very much.

23 THE PROSPECTIVE JUROR: I'm sorry.

24 THE COURT: Don't forget your glasses next time.

25 THE PROSPECTIVE JUROR: Number ten. I have lived in

1 Cobble Hill, Brooklyn for nine years. I am vice president of
2 government community relations at New York City Transit. My
3 husband is an inspector at the New York City of Consumer
4 Affairs. We have one 14-year-old daughter. I have been to
5 law school. I've never sat on a jury before nor I have been a
6 grand juror.

7 THE COURT: What law school did you go to?

8 THE PROSPECTIVE JUROR: Northeastern. I have never
9 been involved in a criminal case and there is no reason why I
10 couldn't serve impartially.

11 THE COURT: Fair and impartial?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Okay.

14 THE PROSPECTIVE JUROR: I have my glasses. I'm
15 number 11. I have lived in Huntington, New York for 35 years.
16 I am a retired English professor from Long Island University.

17 THE COURT: What university?

18 THE PROSPECTIVE JUROR: LIU. But I am currently a
19 free-lance writer. I am married. My husband is an attorney.

20 THE COURT: Where does he work?

21 THE PROSPECTIVE JUROR: He works for Morgan
22 Finnegan. It's intellectual property law. I have two adult
23 children. My son works for NASDAQ and my daughter is a
24 free-lance screen writer.

25 I have a masters in English literature from Carnegie

1 Mellon University. I have sat on a jury before. It was a
2 civil case and it was settled.

3 THE COURT: State or federal?

4 THE PROSPECTIVE JUROR: State.

5 THE COURT: How long ago?

6 THE PROSPECTIVE JUROR: About nine years. I've
7 never been a grand juror. I've never been involved in a
8 criminal case as a complainant or a defendant or witness or in
9 any other way.

10 There is no reason that could not listen to the
11 evidence, follow the instructions as to the law and to render
12 a fair and impartial verdict.

13 THE COURT: Thank you very much.

14 THE PROSPECTIVE JUROR: I'm number 12. I'm living
15 Woodside, Queens. Before I'm living in Brooklyn. I'm --

16 THE COURT: How long have you been living in
17 Woodside?

18 THE PROSPECTIVE JUROR: Four years. Before I'm in
19 Brooklyn four years. I drive taxi. Last two years I have
20 jury duty but I have speaking problem and writing problem so I
21 come back then -- I've never tried to do this, you know.

22 THE COURT: He said he has a problem with the
23 English speaking and writing.

24 THE PROSPECTIVE JUROR: Yeah, reading also.

25 MR. DAYAN: I have no objection.

1 MR. CAMPOS: No objection, your Honor.

2 THE COURT: We will send you to another jury. Go
3 back downstairs.

4 (Excused.)

5 THE CLERK: Gloria Chau.

6 THE COURT: Miss Chau, have you heard my questions?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Any responses to any of them?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: What is it?

11 THE PROSPECTIVE JUROR: Order that we supposed to
12 follow.

13 THE COURT: What about it?

14 THE PROSPECTIVE JUROR: Just like follow.

15 THE COURT: I have been asking questions of some of
16 your colleagues here and I want to know, have you heard those
17 questions that I have been asking them?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: Do you have any responses to any of
20 those questions?

21 THE PROSPECTIVE JUROR: I don't know how to answer.
22 What are you asking?

23 THE COURT: Do you have any questions about them?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Can you read the questions that are on

1 your screen?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Answer the first question.

4 THE PROSPECTIVE JUROR: I live in Flushing, Queens
5 for about 29 years. I retired from Immigration and
6 Naturalization Office.

7 THE COURT: 26 Federal Plaza?

8 THE PROSPECTIVE JUROR: Eastern Telephone Center.

9 THE COURT: Where was the office?

10 THE PROSPECTIVE JUROR: Eastern Telephone Center of
11 Immigration.

12 THE COURT: Was that at 26 Federal Plaza?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Where was it?

15 THE PROSPECTIVE JUROR: Houston Street. I retired
16 from that office.

17 THE COURT: Okay.

18 THE PROSPECTIVE JUROR: I'm married.

19 THE COURT: What does your husband do?

20 THE PROSPECTIVE JUROR: He retired also. He was a
21 billing manager.

22 THE COURT: From the same office?

23 THE PROSPECTIVE JUROR: No. He worked for NYNEX,
24 the telephone.

25 THE COURT: All right.

1 THE PROSPECTIVE JUROR: I don't have any children.

2 THE COURT: How much school have you had?

3 THE PROSPECTIVE JUROR: I graduated from SUNY with a
4 BA in economics.

5 THE COURT: Did you ever sit on a jury before?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Have you ever been a grand juror?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Have you ever been involved in a
10 criminal case as a complainant, defendant or witness?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Would you be able to listen to the
13 evidence in the case, follow my instructions and render a fair
14 and impartial verdict if you were chosen?

15 THE PROSPECTIVE JUROR: I think so.

16 THE COURT: Next.

17 THE PROSPECTIVE JUROR: Number 13. I've lived in
18 Brooklyn for 26 years. My occupation is school crossing guard
19 for NYPD.

20 I'm also retired from Verizon as a customer service
21 representative. I am also married. My husband is retired
22 from Long Island Railroad. I have one son 39. He's a
23 maintenance worker. I went to high school.

24 THE COURT: What high school?

25 THE PROSPECTIVE JUROR: Franklin K. Lane. I sat on

1 a civil case and also criminal case and they both have gone to
2 verdict.

3 THE COURT: State or federal?

4 THE PROSPECTIVE JUROR: State.

5 THE COURT: How long ago?

6 THE PROSPECTIVE JUROR: About nine years ago.

7 I've never been on grand jury. I've never been
8 involved in a criminal case, as whatever, a complainant,
9 defendant or witness and I find no reason why I can't listen
10 to the evidence and follow the court's instructions.

11 THE COURT: And render a fair and impartial verdict?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Thank you.

14 THE PROSPECTIVE JUROR: I'm number 14. I've lived
15 in Brooklyn for the past 50 years. I'm a CPA. I do have 2 or
16 3 clients that were hurt by counterfeit.

17 THE COURT: You have what?

18 THE PROSPECTIVE JUROR: I have at least two or three
19 clients that were hurt because of counterfeit.

20 THE COURT: Would that impair your ability to sit in
21 this case?

22 THE PROSPECTIVE JUROR: I believe it will.

23 THE COURT: Any objection, counsel?

24 MR. DAYAN: No.

25 MR. CAMPOS: No, your Honor.

1 THE COURT: All right. What we will do is send you
2 to another jury.

3 (Excused.)

4 THE CLERK: Robin Prager.

5 THE COURT: Is it Prager or Trager?

6 THE PROSPECTIVE JUROR: Prager with a P.

7 THE COURT: Have you heard my questions?

8 THE PROSPECTIVE JUROR: Yes, I have.

9 THE COURT: Any responses to any of them?

10 THE PROSPECTIVE JUROR: No, sir.

11 THE COURT: Can you answer those questions?

12 THE PROSPECTIVE JUROR: Yes. I live in Commack, New
13 York. I have lived there for 22 years. I am employed as an
14 accountant for a private equities fund in Manhattan.

15 I am not married. I have two children, one that
16 works for a law firm but is not an attorney, the other that is
17 also a full-time college student. I have a bachelor's of
18 science in business administration. I have sat as a juror on
19 a state civil case that went to decision. I've never been --

20 THE COURT: How long ago was that.

21 THE PROSPECTIVE JUROR: I would say ten years ago.
22 I have never been a grand juror. I have never been involved
23 in a criminal case as a complainant, defendant or witness or
24 in any other way.

25 There is no reason that I could not listen to the

1 evidence, follow the court's instructions as to the law and
2 render a fair and impartial verdict.

3 THE COURT: Thank you very much.

4 THE PROSPECTIVE JUROR: Number 15. I live in East
5 Marion and have for the past 16 years. I am a realtor and I
6 am employed by Century 21. I'm not married and have no adult
7 children.

8 I have a bachelor's degree in education. I have not
9 sat on a jury before, I've never been a grand juror, have
10 never been involved in a criminal case as a complainant,
11 defendant or witness or in any other way, and there is no
12 reason why I can't listen to the evidence, follow the court's
13 instructions as to the law and render a fair and impartial
14 verdict.

15 THE COURT: Thank you.

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1 THE COURT: Thank you.

2 THE PROSPECTIVE JUROR: Good morning.

3 I am number 16. I live -- I lived in Brooklyn,
4 New York, for fifty-one years.

5 I'm administrative assistant for HRA, New York City.

6 I am not married.

7 I have two children.

8 One, 22, going to college. The other one is 28.

9 She is a New York City schoolteacher and she is going to
10 college for her masters.

11 I have -- I finished high school.

12 THE COURT: What high school was it?

13 THE PROSPECTIVE JUROR: Prospect Heights High
14 School.

15 I have sat on a jury, in the spring of 2006. No. I
16 sat on a jury, two civil court cases. I had between ten,
17 fifteen years ago. That's two. I served on a grand jury,
18 2006.

19 THE COURT: Were they state or federal?

20 THE PROSPECTIVE JUROR: State.

21 THE COURT: Okay.

22 THE PROSPECTIVE JUROR: I sat on the grand jury in
23 the spring of 2006 for fourteen days.

24 THE COURT: Was that state or federal?

25 THE PROSPECTIVE JUROR: That was state.

1 I've never been involved in a case or a complaint
2 for a defendant or witness and there is no reason why I can't
3 listen to the evidence, follow the Court's instructions of the
4 law and give a fair impartial verdict.

5 THE COURT: Thank you very much.

6 THE PROSPECTIVE JUROR: I am number 17. I live in
7 Boro Park, about 34 years.

8 I am retired from my job. I got two children.

9 THE COURT: What kind of job did you retire from?

10 THE PROSPECTIVE JUROR: I am working in a factory,
11 sewing machine.

12 THE COURT: Okay.

13 THE PROSPECTIVE JUROR: I have two children, two
14 daughters. My daughter working as a secretary. The other one
15 at part-time job and she goes to college. Queens College.

16 And -- and I served on the Court, civil court, about
17 nine years ago.

18 THE COURT: Was it a state or federal?

19 THE PROSPECTIVE JUROR: No. Civil.

20 THE COURT: Was it in the state court or federal
21 court?

22 THE PROSPECTIVE JUROR: No. In the state.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR: And --

25 THE COURT: Have you ever been a grand juror?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Did you say how much schooling have you
3 had?

4 THE PROSPECTIVE JUROR: Me?

5 THE COURT: Yes.

6 THE PROSPECTIVE JUROR: I just go to the ninth
7 grade. That's it.

8 THE COURT: Where?

9 THE PROSPECTIVE JUROR: Puerto Rico.

10 THE COURT: Okay. Have you ever been involved in a
11 criminal case as a complainant, defendant or witness?

12 THE PROSPECTIVE JUROR: Never.

13 THE COURT: Could you listen to the evidence, follow
14 my instructions and render a fair and impartial verdict if you
15 were chosen?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay. Next.

18 THE PROSPECTIVE JUROR: I am number 18. I live in
19 Brooklyn for 50 years.

20 THE COURT: Keep your voice up.

21 THE PROSPECTIVE JUROR: I live in Brooklyn for
22 50 years. My occupation is, I am HAA, work at Metro. I am
23 not married. I have two adult children. I have my son, 20,
24 goes to Bronx Community College, worked for maintenance. I
25 have a 31 year old daughter who is taking care of the kids.

1 I finished high school. I never been on a jury
2 before. I never been a grand juror before and I never been in
3 a criminal case before.

4 Let's see. And there is no reason why I can't
5 listen or follow the instructions of the law and render a fair
6 and impartial verdict.

7 THE COURT: Okay. Thank you very much.
8 Counsel?

9 MR. DAYAN: May we approach?

10 THE COURT: Yes.

11 (Side bar.)

12 MR. DAYAN: I thought you were inviting me to voir
13 dire the jury.

14 THE COURT: What happens now, there are ten and six.
15 He gets ten, you get six. Are you ready?

16 MR. DAYAN: He gets?

17 THE COURT: No.

18 MR. CAMPOS: You get ten.

19 THE COURT: You get ten. He gets six. I'll tell
20 you how it does.

21 He goes first with one.

22 Then you go second, you pick four.

23 Then he will pick two.

24 Then you will pick four.

25 Then he will pick another two, you pick your final

1 two and then he picks his one. Okay?

2 MR. DAYAN: Yes.

3 MR. CAMPOS: Judge, do you want to do that now? Can
4 we have maybe five or three minutes?

5 THE COURT: Three minutes.

6 MR. CAMPOS: Okay.

7 THE COURT: Okay.

8 (Pause.)

9 THE COURT: Ready?

10 MR. DAYAN: One minute, Judge.

11 THE COURT: Okay.

12 (Pause continues.)

13 MR. DAYAN: Judge, rather than disqualify them, we
14 are actually selecting them?

15 THE COURT: You are selecting them, yes.

16 MR. DAYAN: All right. You go first?

17 THE COURT: Yes.

18 One second, please. We will get the sheet.

19 MR. DAYAN: Whoever he selects, I cannot challenge?
20 That's his selection?

21 THE COURT: He -- he will challenge the people. The
22 people he doesn't want.

23 MR. DAYAN: That's what I thought.

24 MR. CAMPOS: These are peremptory challenges.

25 MR. DAYAN: Peremptory challenges, right.

1 THE COURT: You have ten. He has six.

2 MR. DAYAN: Got it.

3 THE COURT: Who do you challenge?

4 MR. CAMPOS: Number one.

5 THE COURT: Number one.

6 Now you have four.

7 MR. DAYAN: Challenge number two, three and four.

8 THE COURT: Two, three, four.

9 MR. DAYAN: That's it.

10 THE COURT: You have four.

11 MR. DAYAN: Oh. I could go -- all right.

12 MR. CAMPOS: Number, two, three and four you said?

13 MR. DAYAN: Right.

14 THE COURT: You have one more.

15 MR. DAYAN: And eight.

16 THE COURT: Okay. Now you have two.

17 MR. CAMPOS: Number 7.

18 THE COURT: All right.

19 MR. CAMPOS: Number nine.

20 THE COURT: Number 7 and number nine.

21 Now you have four.

22 MR. DAYAN: I got ten.

23 THE COURT: Ten.

24 MR. DAYAN: Striking ten.

25 MR. CAMPOS: That was your fifth one? Yes.

1 MR. DAYAN: Can I -- can I strike someone from
2 cause? I don't think she speaks well enough to be heard in
3 the jury room.

4 THE COURT: You are going to strike them. Cause was
5 before. That's why I asked you. This is your peremptory
6 challenge.

7 MR. CAMPOS: These are peremptories.

8 MR. DAYAN: Right. I don't think she can speak.

9 THE COURT: You can challenge her, if you want to.
10 You have three more.

11 MR. DAYAN: I challenge her.

12 THE CLERK: Are you saying 12?

13 MR. CAMPOS: That's number 12 he is challenging.

14 THE COURT: 10, 12.

15 You have two more.

16 MR. DAYAN: I have to do that now, right?

17 THE COURT: Yes.

18 MR. DAYAN: 16.

19 THE COURT: One more.

20 MR. CAMPOS: 16.

21 THE COURT: 16.

22 MR. DAYAN: Yes.

23 THE COURT: One more.

24 MR. DAYAN: 15.

25 THE COURT: Okay. 15 and 16.

1 You have two.

2 MR. CAMPOS: Yes, Your Honor.

3 Number 17.

4 THE COURT: Number 17.

5 MR. CAMPOS: This is my third.

6 THE COURT: You have another one.

7 MR. CAMPOS: Yes.

8 And number 18.

9 THE COURT: 17 and 18.

10 You've got your last two.

11 MR. DAYAN: 16. Did I challenge 16 already?

12 THE CLERK: You did.

13 MR. DAYAN: I did, yes.

14 And I challenged 15, right, before? Sorry.

15 THE COURT: You challenged 15.

16 MR. DAYAN: 21. That's Ms. Levine, right? In the
17 first row, can I ask, to make sure I am challenging the right
18 one? It is the first one, one, two, three. The third one.

19 THE COURT: In the first row?

20 THE CLERK: 19.

21 THE COURT: Outside of the box?

22 THE CLERK: 19, 20, 21. That's Dianna, L E L L O.

23 THE COURT: That's the one in the peach blouse.

24 MR. DAYAN: Right.

25 THE COURT: 21.

1 MR. DAYAN: Her and the lady before.

2 THE CLERK: 20 and 21.

3 THE COURT: Okay. You have one. One more.

4 MR. CAMPOS: 28.

5 THE COURT: 28.

6 THE CLERK: 28, did you say?

7 MR. CAMPOS: 28.

8 THE COURT: What we are going to do is, I figure we
9 will have two alternates. This will be a short trial. We
10 will put four in the box and you will each have one challenge.

11 MR. DAYAN: Okay.

12 MR. CAMPOS: You will put four and then two will be
13 the alternates.

14 THE COURT: Yes. You will challenge one. He will
15 challenge one. That leaves two left. Okay? All right.

16 (In open court.)

17 THE CLERK: Your Honor, I need a moment.

18 THE COURT: Yes.

19 THE CLERK: The following jurors can report back to
20 the jury room.

21 It looks like one of the jurors has a question.

22 THE COURT: Somebody had a question?

23 THE CLERK: 26.

24 THE COURT: Your number?

25 THE PROSPECTIVE JUROR: 26.

1 I was asked downstairs at the desk to ask you, I had
2 a death in the family and I need to be excused for tomorrow.

3 THE COURT: For tomorrow.

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: I am sorry to hear that.

6 THE CLERK: That's number 26, Your Honor.

7 THE COURT: Come up, please.

8 (SIDE BAR.)

9 THE COURT: She is one of the ones that were chosen.

10 MR. DAYAN: 26?

11 MR. CAMPOS: She was chosen.

12 MR. DAYAN: Was 25 chosen too?

13 MR. CAMPOS: Yes. 26 and 25. I guess I will leave
14 it to your discretion, Judge.

15 THE COURT: No.

16 MR. CAMPOS: If there is an objection by the
17 defense?

18 THE COURT: Do you want her here? Do you want to
19 change somebody else?

20 MR. DAYAN: Can I also change 25? Because I had --
21 it was a combination.

22 THE COURT: No. It will only be one at issue right
23 now.

24 MR. DAYAN: I understand that.

25 THE COURT: What I can do, I can excuse her. We

1 will pick another one from the jury and ask them the
2 questions.

3 MR. DAYAN: What are the other alternatives that we
4 have?

5 THE COURT: We are in good shape now. I can let her
6 go and then there are still people in the audience. I will
7 ask them the same questions. She will read the sheet and --

8 MR. DAYAN: My suggestion is, are there other jurors
9 on this panel that are -- that we didn't get to?

10 MR. CAMPOS: No. We got to everybody.

11 THE COURT: We got to everybody.

12 MR. DAYAN: All right. Yes, I will just -- whatever
13 Your Honor wants to do.

14 MR. CAMPOS: If it is clear that there is no
15 objection by the defense, Your Honor, then the government is
16 not going to object. I am not sure --

17 MR. DAYAN: There is no objection. Whatever --

18 THE COURT: You want to let her go?

19 MR. DAYAN: Yes.

20 THE COURT: All right.

21 (In open court.)

22 THE COURT: I'm sorry about the death in your
23 family. What we will do, we will let you go. You will tend
24 to your affairs. You've got my condolences.

25 THE PROSPECTIVE JUROR: Thank you.

1 THE COURT: Please go downstairs to the clerk's
2 office. You let them know that you informed me.

3 THE PROSPECTIVE JUROR: They told me to speak to
4 you. I didn't know when.

5 THE COURT: You spoke to me. Go downstairs, please.
6 As I say, you have my condolences.

7 Let's call somebody else, please.

8 THE CLERK: Number 34 on our list, Donald Alderson
9 and he will be number 26.

10 Donald Alderson, you will be number 26.

11 THE COURT: Sir, have you heard my questions?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Any responses to any of those questions?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Can you answer the questions that are on
16 the screen.

17 THE PROSPECTIVE JUROR: Yes.

18 I have lived in Park Slope, Brooklyn, for five
19 years.

20 I am a risk analyst for Morgan Stanley.

21 I am married.

22 My wife is an analyst for MDRC.

23 THE COURT: MDRC?

24 THE PROSPECTIVE JUROR: Yes. They do social science
25 policy research.

1 THE COURT: Okay.

2 THE PROSPECTIVE JUROR: I don't have any children.

3 I have a bachelors and masters degree in economics.

4 I've never been on a jury before.

5 Never been involved in a criminal case.

6 And there is no reason why I couldn't listen to the
7 evidence, follow the Court's instructions as to the law and
8 render a fair and impartial verdict.

9 THE COURT: Thank you very much.

10 (Side bar.)

11 THE COURT: Any objection?

12 MR. CAMPOS: No, Your Honor.

13 THE COURT: Counsel?

14 MR. DAYAN: Do I have -- what's my other choice?

15 Are you going to call another one if I object?

16 THE COURT: Yes.

17 MR. DAYAN: Yes, I do object to him.

18 THE COURT: You object?

19 MR. DAYAN: I object.

20 THE COURT: Okay. I will call another one.

21 (In open court.)

22 THE CLERK: Mr. Alderson, you can report to the jury
23 room.

24 Josephine Broder. She is originally on the list as
25 35. She will be number 26.

1 THE COURT: How are you, Ms. Broder?

2 THE PROSPECTIVE JUROR: Fine. Thank you.

3 THE COURT: Have you heard my questions?

4 THE PROSPECTIVE JUROR: Yes.

5 I have a brother who is a supervisor at the FBI.

6 THE COURT: Because he does work for the FBI, would
7 that impair your ability to be fair and impartial in this
8 case?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Thank you.

11 Will you read the questions that are on the screen?

12 THE PROSPECTIVE JUROR: Okay.

13 I have lived in Rockville Center, Nassau County, for
14 30 years.

15 THE COURT: Keep your voice up.

16 THE PROSPECTIVE JUROR: I'm sorry?

17 THE COURT: Your voice up.

18 THE PROSPECTIVE JUROR: I'm sorry.

19 I have lived in Rockville Center for 30 years. In
20 Nassau County.

21 I was with a women's clothing store in the buying
22 department.

23 My husband is a hospital executive.

24 I have two grown children.

25 My son is a bond trader with J.P. Morgan.

1 My daughter is an elementary schoolteacher.

2 Let's see.

3 I have served on two juries. One civil case that
4 was state, settled out of court.

5 The second was a criminal. It was about three years
6 ago, in the state.

7 He was found not guilty. It was a murder trial.

8 No grand jury.

9 I've never been involved in a criminal case.

10 There is no reason why I could not listen to the
11 evidence, follow the Court's instructions as to the law, and
12 render a fair and impartial verdict.

13 THE COURT: All right.

14 (Side bar.)

15 MR. CAMPOS: Your Honor, I would strike her.

16 THE COURT: You will strike her?

17 MR. CAMPOS: Yes.

18 THE COURT: On what ground?

19 MR. CAMPOS: Not for cause. This is not for cause.

20 THE COURT: Okay.

21 MR. DAYAN: We object.

22 THE COURT: I know you do. Okay. We will call
23 another one.

24 (In open court.)

25 THE CLERK: Ms. Broder, you are excused. You can

1 report to the jury room.

2 This would be number 37 on the list, Chao, C H A O
3 Hua, H U A, H E H Chao, you will be number 26.

4 You can have a seat.

5 THE COURT: Have you heard my questions to your
6 colleagues?

7 THE PROSPECTIVE JUROR: No, not exactly.

8 THE COURT: You didn't hear them?

9 THE PROSPECTIVE JUROR: No. My understanding, got
10 understanding problem for English.

11 THE COURT: He doesn't understand English very well.

12 MR. CAMPOS: No objection.

13 MR. DAYAN: No objection.

14 THE COURT: Okay. We will send you back downstairs
15 to clerk's office, okay?

16 THE PROSPECTIVE JUROR: Go downstairs?

17 THE COURT: Yes.

18 THE PROSPECTIVE JUROR: Second floor?

19 THE CLERK: Yes.

20 THE PROSPECTIVE JUROR: Thank you.

21 THE CLERK: V.R. Dalessandro, D A L E S S A N D R O.

22 THE COURT: Have you heard my questions,
23 Ms. Dalessandro?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Any responses to them?

1 THE PROSPECTIVE JUROR: Just a friend being a cop.

2 THE COURT: Pardon me?

3 THE PROSPECTIVE JUROR: One of my friends is a cop.

4 THE COURT: Is a cop?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Where do they work?

7 THE PROSPECTIVE JUROR: In Brooklyn.

8 THE COURT: Would that impair your ability to
9 deliberate fairly and impartially in this case if you were
10 chosen?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Okay. Can you read the questions on the
13 screen.

14 THE PROSPECTIVE JUROR: I live in Westbury, Long
15 Island, for all my life, 26 years.

16 I work for Geico Insurance Company as a claims
17 representative.

18 I am not married, no children.

19 I have a bachelors in business administration.

20 I have been on a jury before, five years ago, in
21 Nassau, got picked but then it ended up getting settled out
22 between the attorneys.

23 THE COURT: That was a state case?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR: Never been on a criminal
2 case, never been on grand jury and there is no reason why I
3 could not listen to the evidence, follow the Court's
4 instructions as to the law and render a fair and impartial
5 verdict.

6 THE COURT: Thank you very much. Counsel.
7 (Side bar.)

8 MR. DAYAN: It is my -- I have no objection.

9 MR. CAMPOS: No objection.

10 THE COURT: Okay.
11 (In open court.)

12 THE COURT: Call the names, please, of those
13 excused.

14 THE CLERK: Yes, Your Honor.

15 Juling Mak, you can report to jury.

16 Darlene McMorris, you can also report to jury.

17 THE COURT: You say the following have been excused.

18 THE CLERK: The following jurors are excused and you
19 are to report to jury.

20 Blanca Jordan, you can go to jury.

21 Polina Belomlinskaya, report to jury.

22 Seetaram Taranpatie.

23 Thor Kongvold.

24 Latchmin Haniff.

25 Lois Tandler.

1 Gloria Chau.

2 Catherine Cartolano.

3 Betty Gilbert.

4 Carmen Cogles.

5 Cheryl Smith. Cheryl Smith.

6 THE PROSPECTIVE JUROR: Yes.

7 THE CLERK: Thank you.

8 Ann Vacante, V A C A N T E.

9 Dianna Lello.

10 Leon Benisrael B E N I S R A E L.

11 THE COURT: Is that it?

12 THE CLERK: Now I will seat them?

13 THE COURT: Yes.

14 THE CLERK: We should have 12 left.

15 THE COURT: All right. You are number one, number
16 two, number three. Move down, please.

17 You will move down. You are number four and you are
18 number five.

19 You will be number six. You can go around.

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Then you will be number 7, eight, nine,
22 ten, eleven and twelve.

23 THE CLERK: The jurors are seated properly, Your
24 Honor.

25 THE COURT: Is the jury satisfactory to the

1 government?

2 MR. CAMPOS: Yes, Your Honor.

3 THE COURT: Satisfactory to the defendant?

4 MR. DAYAN: It is.

5 THE COURT: Okay. Now what we are going to do is
6 that the clerk will show you to the jury room. Then we will
7 come back and select the alternates.

8 THE CLERK: If you will follow me.

9 (The following occurred in the absent of the 12
10 selected jurors.)

11 THE PROSPECTIVE JUROR: Excuse me, Your Honor. Is
12 it okay to go to the rest room right now?

13 THE COURT: Just a second. We are going to put four
14 people in the box right here.

15 Well, go ahead. If we call your name, we'll just
16 have to wait for you.

17 Don't be long.

18 THE PROSPECTIVE JUROR: May I go too?

19 (Two jurors leave room.)

20 THE COURT: Four more, please.

21 THE CLERK: The following jurors please come up and
22 have a seat.

23 Charles Schilling.

24 Noor Bhatti, B H A T T Y.

25 Norman Ressnick, R E S S N I C K.

1 And Nancy Terry, T E R R Y.

2 THE COURT: Have you heard the questions I have been
3 asking your colleagues?

4 Do any of you have any responses to these questions?

5 THE PROSPECTIVE JUROR: Number one. I have several
6 friends in law enforcement, Nassau County, police officers.

7 THE COURT: Your number?

8 THE PROSPECTIVE JUROR: One. But I don't think I'll
9 have -- it will have any effect at all.

10 THE COURT: That wouldn't impair your ability to
11 deliberate fairly and impartially if you were chosen?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Number?

14 THE PROSPECTIVE JUROR: Two. Two.

15 THE COURT: Do you have any questions?

16 THE PROSPECTIVE JUROR: No.

17 THE PROSPECTIVE JUROR: Number three, Your Honor.

18 During the Republican convention a friend of mine
19 who is a journalist was arrested, and according to her, her
20 press pass was pulled by an agent of the Secret Service. I'm
21 not sure how this would affect my judgment in this case.

22 Although I would tend to look at the testimony of secret
23 agents, Secret Service agents, with a degree of criticism.

24 THE COURT: As I said before, you have to keep an
25 open mind in this case. The case will be decided based solely

1 on the evidence, testimony and exhibits. Nothing else out of
2 this Court can influence you or determine whether the
3 defendant committed the crime that he is accused of.

4 You still feel that same way?

5 THE PROSPECTIVE JUROR: I will try, but I can't
6 guarantee anything.

7 MR. CAMPOS: No objection, Your Honor.

8 MR. DAYAN: No objection.

9 THE COURT: Okay. We will get another one. We will
10 send you back downtown to the clerk's office.

11 THE CLERK: Ethel Lewis, juror number three.

12 THE COURT: Have you heard my questions, Ms. Lewis?

13 THE PROSPECTIVE JUROR: Yes, I have.

14 THE COURT: Any responses to any of them?

15 THE PROSPECTIVE JUROR: I don't know anybody in this
16 courtroom. I don't know anybody currently in law enforcement
17 or FBI, Secret Service.

18 THE COURT: Thank you.

19 Now, number one, will you read the piece of paper
20 that's in your hand or the questions that are on the screen?

21 THE PROSPECTIVE JUROR: I live in East Meadow,
22 Nassau County, for 52 years.

23 I am a middle school math teacher in the Levittown
24 School District.

25 I am not married, have no children.

1 I have a bachelors and masters degree from Adelphi
2 University.

3 I have sat on a jury three times, in state court,
4 once was a civil case, twice criminal cases and they all came
5 to verdict.

6 I've never been --

7 THE COURT: How long ago was that?

8 THE PROSPECTIVE JUROR: The last one was
9 approximately ten years ago.

10 THE COURT: Okay.

11 THE PROSPECTIVE JUROR: I've never served on a grand
12 jury.

13 I've never been involved in a criminal case in any
14 way, and there is no reason why I can't listen to the
15 evidence, follow the Court's instructions as to the law, and
16 render a fair and impartial verdict.

17 THE COURT: Thank you very much.

18 Number two?

19 THE PROSPECTIVE JUROR: Yes.

20 I'm living in Brooklyn eight years.

21 I am a housewife.

22 I have three daughters, all of them go to school.

23 I've never been involved in any criminal cases, so I
24 have --

25 THE COURT: Read the questions on the board.

1 Are you married?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: What does your husband do?

4 THE PROSPECTIVE JUROR: Works in gas station. At a
5 gas station.

6 THE COURT: Okay. Do you have children?

7 THE PROSPECTIVE JUROR: Yes. I have three
8 daughters, all of them go to school.

9 THE COURT: What are the ages?

10 THE PROSPECTIVE JUROR: 15, 14, 13.

11 THE COURT: How much schooling have you had?

12 THE PROSPECTIVE JUROR: I?

13 THE COURT: Yes.

14 THE PROSPECTIVE JUROR: I am 12 years.

15 THE COURT: Where did you go to school?

16 THE PROSPECTIVE JUROR: Not in this country. In my
17 country.

18 THE COURT: Where is that?

19 THE PROSPECTIVE JUROR: Pakistan.

20 THE COURT: Pakistan?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: What city?

23 THE PROSPECTIVE JUROR: Lahore.

24 THE COURT: I spent a lot of time in Pakistan.

25 Have you ever sat on a jury before?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Have you ever been a grand juror?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Have you ever been involved in a
5 criminal case as a complainant, defendant or witness?

6 THE PROSPECTIVE JUROR: No, never.

7 THE COURT: Is there any reason why you can't listen
8 to the evidence, follow my instructions and be fair and
9 impartial in rendering a verdict?

10 THE PROSPECTIVE JUROR: Because my English language
11 is not as good as you have, I have some hesitation in speaking
12 already.

13 THE COURT: All you would have to do is to listen.

14 THE PROSPECTIVE JUROR: But sometime I have some
15 problem.

16 THE COURT: Counsel?

17 MR. DAYAN: No objection.

18 MR. CAMPOS: No objection.

19 THE COURT: Okay. We will send you back downstairs.
20 Let's have another juror, please.

21 THE CLERK: Francez Bartolomeo F R A N C E Z. You
22 are number two.

23 THE COURT: Have you heard my questions, ma'am?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Any answers?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Will you read the questions that are on
3 the board there.

4 THE PROSPECTIVE JUROR: I live in Middle Village,
5 Queens --

6 THE COURT: Keep your voice up.

7 THE PROSPECTIVE JUROR: I live in Middle Village
8 Queens, for 24 years.

9 I am a traffic coordinator for CW 11.

10 I am not married.

11 I don't have kids.

12 I have a high school diploma.

13 I never sat on a jury before.

14 I've never been a grand juror.

15 I've never been involved in a criminal case.

16 And there is no reason that I can't listen -- that I
17 could listen to and follow the instructions.

18 THE COURT: You could listen do the evidence and
19 follow my instructions and render a fair and impartial
20 verdict?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Thank you.

23 THE PROSPECTIVE JUROR: My turn? Number three.

24 I live in Howard Beach, Queens, for the last
25 31 years.

1 A school secretary employed by New York City
2 department of education.

3 Not married.

4 I have no children.

5 No significant other.

6 I've -- got halfway through college and didn't go
7 anymore.

8 THE COURT: What school did you go to?

9 THE PROSPECTIVE JUROR: What? New York City
10 Technical College.

11 THE COURT: All right.

12 THE PROSPECTIVE JUROR: When it was New York City
13 Community College.

14 I've never sat on a jury before, but I have been
15 called many times.

16 I've never been a grand juror.

17 I have been a complainant in a civil action about
18 35 years ago. It was settled out of court.

19 And I've -- I haven't been on a criminal -- in a
20 criminal action, but I was a victim of a crime. So --

21 THE COURT: You did what?

22 THE PROSPECTIVE JUROR: I said I've never been
23 involved in a criminal trial, but I was a victim of a crime.

24 THE COURT: How long ago was that?

25 THE PROSPECTIVE JUROR: Oh, 35 years.

1 THE COURT: Would that impair your ability to
2 deliberate fairly and impartially in this case?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Okay. The other, could you listen to
5 the evidence, follow my instructions as to the law and render
6 a fair and impartial verdict?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay. Number four.

9 THE PROSPECTIVE JUROR: I live in Jackson Heights.

10 THE COURT: Number four, right?

11 THE PROSPECTIVE JUROR: Yes.

12 I live in Jackson Heights, for 11 years.

13 I am a free lance medical writer.

14 I am married.

15 I have no children.

16 My husband is retired.

17 I have a BA and a BS.

18 I have never sat on a jury, criminal or civil.

19 Not a grand jury.

20 I've not been involved in a criminal case as
21 plaintiff, defendant or witness or in any other way.

22 There is no reason why I can't listen to the
23 evidence, follow the Court's instructions as to the law and
24 render a fair and impartial verdict.

25 However, Your Honor, I just want to ask you a

1 question.

2 Because I am a free lance writer, I have to hustle
3 for work. I am attending a meeting in DC on Wednesday. I
4 won't know until tonight so I am kind of hanging. I don't
5 even know whether it is a real problem or not.

6 But I am not sure. It would be a hardship if I --

7 MR. DAYAN: No objections.

8 MR. CAMPOS: No objection.

9 THE COURT: Okay. What -- we will let you go.
10 That's very important.

11 THE PROSPECTIVE JUROR: I would know by tomorrow if
12 I am okay but that doesn't help you very much.

13 THE COURT: We will get someone else.

14 THE PROSPECTIVE JUROR: Thank you.

15 THE COURT: I wish you a lot of luck.

16 THE PROSPECTIVE JUROR: Thank you. I will need it.

17 THE CLERK: Sherma John-Abbott.

18 THE COURT: Ms. Abbott, have you heard my questions
19 to your colleagues?

20 THE PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Any responses to any of those questions?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Can you answer the questions on that
24 sheet that you have in front of you.

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: All right.

2 THE PROSPECTIVE JUROR: I live in Brooklyn for the
3 past five years. Before I lived in Long Island.

4 I am an administrative assistant. I work for the
5 Brookhaven National Laboratory.

6 I have two babies, eleven months and two years.

7 I have a husband. He's in construction.

8 I have a bachelors in organizational management,
9 currently pursuing a masters in human resources management.

10 I've never sat on a jury before.

11 I've never been a grand juror.

12 I've never been involved in a criminal case as a
13 plaintiff, defendant or witness or any other.

14 And there is no reason why I -- why I could not
15 listen to the evidence, follow the Court's instruction as to
16 the law and render a fair and impartial verdict.

17 THE COURT: Thank you very much.

18 (Side bar.)

19 MR. DAYAN: I strike number one.

20 THE COURT: Number one?

21 MR. CAMPOS: Number three, Your Honor.

22 THE COURT: Number one and number three.

23 Okay.

24 (In open court.)

25 THE CLERK: The following jurors can report back to

1 jury.

2 Charles Schilling and Ethel Lewis.

3 THE COURT: Alternates satisfactory to the
4 defendant?

5 MR. DAYAN: They are.

6 THE COURT: Satisfactory to the government?

7 MR. CAMPOS: Yes, Your Honor.

8 THE COURT: Okay. Ana, what we will do, we are
9 going to bring the 12 jurors in, seat them and then we will
10 bring -- seat the alternates.

11 What we will do, it's only going to be 15 minutes a
12 piece, we will have the opening statements and then we will
13 let them go to lunch and then we will take testimony.

14 Okay?

15 MR. DAYAN: Judge, can we go to the men's room?

16 THE COURT: Go ahead. I am the older guy. I am the
17 one supposed to be going to the bathroom.

18 MR. DAYAN: I had coffee right before, Judge.

19 THE CLERK: The rest of you jurors who are waiting,
20 you can report back to jury.

21 (Jurors in back are excused.)

22 THE COURT: Seat the jury, please.

23 MR. DAYAN: Thank you, Your Honor.

24 (Jury present.)

25 THE COURT: Seat the alternate in the back, please.

1 THE CLERK: Yes, Your Honor.

2 THE COURT: Let me explain to you -- you guys can be
3 seated -- I will explain to you how the trial is going to go.

4 What will happen is that there will be opening
5 statements by the lawyers. The government will tell you what
6 this case is all about. I don't know what it is about, except
7 what the indictment says. He will put flesh to these bones.

8 Remember what I said. Whatever the lawyers say is
9 not evidence in this case. The evidence comes from the
10 witnesses.

11 The defendant can say something about the case or he
12 doesn't have to say anything about the case.

13 The defendant is never required to do anything at
14 all in a criminal case. That's our law. You cannot hold it
15 against him.

16 But the defendant might want to have an opening
17 statement or he might not. It is up to him.

18 The government said that their opening statement
19 will be about ten or fifteen minutes. And if the defendant
20 opens, it will be about ten or fifteen minutes.

21 I will then let you go to lunch and maybe about an
22 hour, an hour and a half, and then we will come back and have
23 testimony from as many witnesses as we can get.

24 Is the jury satisfactory to the defendant?

25 MR. DAYAN: They are.

1 THE COURT: The government?

2 MR. CAMPOS: Yes, Your Honor.

3 THE COURT: Swear the jury, please.

4 THE CLERK: Yes, Your Honor.

5 (Jury of 12 plus two alternates duly sworn/affirmed
6 by clerk of Court.)

7 THE COURT: Please be seated.

8 Mr. Campos.

9 MR. CAMPOS: Thank you, Your Honor.

10 Your Honor, may I put the podium here?

11 THE COURT: Yes.

12 MR. CAMPOS: Might I begin, Your Honor?

13 THE COURT: You may.

14 MR. CAMPOS: Counterfeit currency, it's fake money.

15 People buy it, people make it, others sell it.

16 We are here today because the defendant Eduard
17 Yusupov is a seller of counterfeit currency, of fake money.

18 MR. DAYAN: Objection, Judge.

19 That's an allegation.

20 THE COURT: That's right. As I said before,
21 whatever lawyers say is not evidence. This is the
22 government's version.

23 You don't have to object.

24 Go ahead.

25 MR. CAMPOS: Good morning, ladies and gentlemen.

1 My name is William Campos. I am an Assistant United
2 States Attorney here in the Eastern District of New York.

3 Seated with me at counsel's table is Special Agent
4 Jeffrey Golaszewski of the United States Secret Service.

5 Together we will present evidence in this case and
6 we will prove beyond a reasonable doubt that the defendant
7 sold counterfeit currency to a person by the name of Sal
8 Falevich.

9 He sold that currency during the spring and summer
10 of 2006. He sold it four times.

11 You will learn that he sold a total of about \$27,000
12 in fake money to Sal Falevich.

13 You will learn that the last sale occurred in
14 July 24th of 2006.

15 The evidence will also show that this was no
16 mistake, that the defendant knew what he was selling was
17 counterfeit currency.

18 You see, in May of 2006, the defendant was in
19 Scottsdale, Arizona, with his brother and they went to a place
20 called the Skin Cafe -- the Skin Cabaret. It is a strip club
21 and they each passed to the hostess, a woman by the name of
22 Andrea Lopez, they each passed to the hostess a fake \$100
23 bill.

24 You will see those hundred dollar bills and those
25 hundred dollar bills were analyzed by counterfeit experts and

1 those hundred dollar bills are of the same type and family of
2 the counterfeit currency that the defendant sold to Sal
3 Falevich on July 24, 2006.

4 Now, on July 24, 2006, the defendant had on three
5 earlier occasions sold fake money to Falevich. On this day
6 they had arranged for a larger amount of money to be bought, a
7 larger amount of fake money to be bought. That's \$20,000 of
8 fake money.

9 And Falevich would buy it for \$0.50 on the face. So
10 \$20,000 in fake money cost \$10,000 in real money.

11 He goes -- Falevich went to the appointed place and
12 time, in Brooklyn, here in the Eastern District, and
13 communicates with the defendant by cell phone.

14 They had known each other. They are in the same
15 business. They are in the car washing business and in fact
16 they once worked together.

17 And he goes -- goes with this other -- Falevich goes
18 with this other fellow, Manessi, and they go together and the
19 money is not there.

20 The defendant has to make some phone calls to get
21 the money there, fake money.

22 He tells Falevich come back in an hour.

23 Falevich comes back sometime later and the money is
24 not handed to Falevich by the defendant. Rather, he tells
25 him, it's in an automobile in the center console. The top

1 package of counterfeit currency is yours, he tells Falevich.
2 The bottom package, that's not yours. That's for someone
3 else.

4 You will see evidence that the cell phone records,
5 that in fact Falevich and Yusupov communicate with each other.
6 But you will also importantly see that the defendant calls up
7 someone else and that someone else calls up a last person.
8 That person by the name of Yakub Yusupov.

9 You will see that there is communication, cell phone
10 communication between the four of them, but only between each
11 other. So that the buyer, Falevich only calls the seller, the
12 defendant. The seller, the defendant, only calls up the
13 middleman, and the middleman only calls up Yusupov, the
14 supplier and it goes that way.

15 You will hear evidence that later, several months
16 later, in August of 2007, Yusupov, the last person that was
17 called, he was found in possession of counterfeit currency and
18 you will hear from the counterfeit expert that, again, that
19 counterfeit currency is of the same type, quality and family
20 as the currency that Falevich bought on the 24th of July 2006,
21 which is also the same type of family of the counterfeit
22 currency that was passed in Arizona.

23 Now, you will hear from Falevich. He pled guilty to
24 a crime and you will hear that, that he pled guilty to
25 dealing -- to the conspiracy to deal in counterfeit currency.

1 You may not like him. He, after all, is a criminal,
2 an admitted criminal. But he is the one that knows who he
3 bought the currency from, and it is from the defendant Eduard
4 Yusupov.

5 You don't only have to trust his word for it. You
6 will hear that there is corroboration, there is stuff that
7 backs up his testimony.

8 And taking that all together, ladies and gentlemen,
9 at the end of the proceedings, I will ask you to find the
10 defendant guilty on all counts of the indictment, which is
11 conspiracy to deal in counterfeit currency, and then there are
12 two separate counts, of dealing in counterfeit currency on
13 July 24, 2007, and then in June to July of -- of 2006, rather.
14 Sorry. 2006.

15 Thank you.

16 THE COURT: Counsel.

17 (Continued on next page.)
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1 MR. DAYAN: Ladies and gentlemen, my name is Albert
2 Dayan, again. This is only one of two opportunities that I
3 will have to address you.

4 This case is simple and it's not very simple. It's
5 not very simple because, as the judge had said earlier, the
6 evidence is going to come from the witness box. It's simple
7 for someone, as you'll see, to sit down into the witness box,
8 and it may be simple for some individuals to lie from that
9 witness box, and it is for you to determine whether the
10 evidence that you will receive in this case is something that
11 you would rely on as credible enough to have you convinced
12 beyond a reasonable doubt.

13 This case is about a man who was arrested on a
14 cross-country journey through the United States trying to pass
15 counterfeit currency from one store to the other.

16 When he was arrested in 2006, he had spent some time
17 in jail, spent some money on legal fees, and was informed by
18 his attorney that --

19 MR. CAMPOS: Objection, your Honor.

20 THE COURT: I'm going to allow it, with the
21 admonition, as I said before, whatever lawyers say is not
22 evidence in this case. This is what we call an opening
23 statement, and defense counsel is giving what he says is the
24 version of the facts. You'll determine what the facts are.

25 MR. DAYAN: I'm actually trying to take a step

1 forward, and trying to give the jury a preview of what I
2 believe they will see during this trial. And when this
3 individual, whose name is Falevich, was informed that the only
4 way for him to save his own skin, he has to give up somebody
5 else, he decided to do so. And you will see that
6 approximately three months after his arrest, he decided to
7 tell the authorities that it was Eddie, Eddie Yusupov, who had
8 sold him the counterfeit currency.

9 Just because he says it was Eddie doesn't
10 necessarily make it so. You will learn that it was not Eddie
11 who was selling him the counterfeit currency, and whoever it
12 is, the informant, cooperating witness, for Falevich, did not
13 want to give up that source. He decided to give up Eddie.

14 You will hear the prosecutor get up and say, If
15 Eddie is so innocent, why would this informant pick on Eddie?,
16 in addition to the fact that the prosecutor would have had
17 that argument if the informant would have picked anybody.

18 But you will see at this trial that the reason that
19 the informant picked Eddie was because he and Eddie had an
20 ongoing business relationship, for months and months to come
21 before he identified Eddie.

22 You will know that the same informant knew that
23 Eddie was an individual who, several weeks before the
24 informant's arrest, had a problem in Arizona. The problem in
25 Arizona -- please be mindful of it -- that Eddie was not

1 charged with that problem in Arizona. He was not prosecuted
2 with the problem in Arizona. But you will see, as the
3 evidence comes out at this trial, that the informant knew
4 about this problem Eddie had in Arizona, and initially, when
5 he had spoke to the agent in this case, he immediately told
6 them, I believe Eddie was in Arizona, leading them to believe
7 that it had to be Eddie, because Eddie had a similar problem.

8 Now, this informant is a very savvy informant, and
9 you will see how his story will shape and develop. As I
10 believe Mark Twain had written, that if you always tell the
11 truth, you don't have to remember, it's not like writing a
12 play, you can go back rewrite it and go back to it, you will
13 see that this informant actually shaped his story to a point
14 where he's ready to deliver it to you here and now in its
15 final version.

16 What I ask you during this trial, ladies and
17 gentlemen of the jury, please keep an open mind when he is
18 testifying. Yes, he's going to say, It's Eddie, and yes, he's
19 going to point at Eddie, and yes, Eddie is going to feel
20 uncomfortable having someone sit there and point at Eddie.

21 Eddie declared his innocence by making the most
22 difficult decision in his young life up to date. He has
23 declared his innocence and he has chosen to go to trial. He
24 has chosen to take a path to come to citizens like yourselves,
25 so you can decide, not Falevich, the informant, not the

1 prosecutor -- who, I remind you, was not there, neither was I
2 -- but you, twelve of you. I ask you to keep an open mind. I
3 ask you to consider the difference between Eddie and
4 Mr. Falevich and the reason that Eddie was in Arizona.

5 This case is not about policy, as Mr. Campos, who I
6 respect greatly, opened up on, what counterfeit currency is.
7 This case is about evidence, the type of evidence that should
8 convince you beyond a reasonable doubt.

9 Thank you very much.

10 THE COURT: Now, how many witnesses do you have?

11 MR. CAMPOS: Your Honor, I have three this
12 afternoon.

13 THE COURT: Okay.

14 What we'll do, I'm going to let you go to lunch,
15 ladies and gentlemen. Be back at, say, 1:30, and we'll start
16 with the witness.

17 There are a lot of restaurants around here, a lot of
18 opportunities to spend all the money you don't have.

19 So, have a nice lunch, and you come right back here.

20 Follow Ana before you go out.

21 (Jury excused.)

22 (Lunch recess.)

23

24

25

1 A F T E R N O O N S E S S I O N

2 (In open court; jury not present.)

3 THE COURT: Are you ready?

4 MR. DAYAN: If I may be heard briefly?

5 THE COURT: Yes.

6 MR. DAYAN: Only because of the sensitivity of the
7 issue, this Arizona evidence coming in, I have, if possible,
8 structured a curative instruction. Would your Honor consider
9 it, because they are introducing the evidence now? The
10 witnesses from Arizona is their case right now.

11 THE COURT: Did you go over it with him?

12 MR. CAMPOS: I have not seen it, Judge.

13 (Pause.)

14 MR. CAMPOS: Your Honor --

15 MR. DAYAN: The reason we're taking our time with
16 this, Judge, depending on this stipulating, my questions may
17 be so brief -- I just want to work on it --

18 THE COURT: Go ahead.

19 MR. CAMPOS: -- because I think this is going to
20 take some time, and it may be appropriate to give any sort of
21 curative instruction that the defense wants at the end of the
22 presentation of these three witnesses.

23 These three witnesses are the Arizona witnesses,
24 and, if a curative instruction or some sort of instruction is
25 desired, it may not be inappropriate to do it at the end of

1 those witnesses.

2 THE COURT: It doesn't make any difference. There's
3 no time on it. I can do it tomorrow morning or later on.

4 MR. CAMPOS: Let's put the witness on. Let's get
5 the testimony in, and then defense counsel and I can have a
6 back-and-forth as to what the appropriate language is, so that
7 the Court can make an informed judgment. Let's put the
8 evidence on.

9 MR. DAYAN: My position is, Judge, that the
10 stipulation is only two sentences, three sentences long, and
11 depending on how we phrase it --

12 THE COURT: It will be easier if you can work it out
13 together.

14 MR. DAYAN: Right.

15 THE COURT: If not, then I'm going to give my
16 limiting instructions. You might like it, you might not like
17 it. If you can work it out, fine.

18 I don't think we should hold these proceedings up
19 while you work it out.

20 MR. DAYAN: All right.

21 Let's assume we cannot work it out prior to the
22 testimony. Would you give a curative instruction prior to the
23 testimony?

24 THE COURT: I can't give a curative instruction
25 prior. I haven't heard the testimony.

1 MR. DAYAN: Point well taken, Judge.

2 MR. CAMPOS: I think there will be sufficient -- we
3 have three witnesses here from Arizona. We'll put them on.
4 Perhaps at the end of that presentation of evidence, we can
5 take a break to do what counsel seeks to do.

6 THE COURT: Okay.

7 Are they here?

8 THE CLERK: Yes, your Honor.

9 (Jury present.)

10 THE COURT: Be seated, ladies and gentlemen.

11 Do you have a witness, Mr. Campos?

12 MR. CAMPOS: Yes, your Honor. The government calls
13 Richard Burkmier.

14 R I C H A R D B U R K M I E R,

15 having been duly sworn, was examined and

16 testified as follows:

17 THE CLERK: State your name and spell your name for
18 the record.

19 THE WITNESS: My name is Richard Burkmier. The last
20 name is spelled B U R K M I E R.

21 THE COURT: You may proceed.

22 DIRECT EXAMINATION

23 BY MR. CAMPOS:

24 Q Good afternoon, sir.

25 A Good afternoon, sir.

1 Q I'll ask you to keep your voice up. It's a large
2 courtroom. I'll try to do the same thing, so that the members
3 of the jury ask hear. Thank you?

4 Where are you employed.

5 A I'm employed with the Scottsdale Police Department in
6 Scottsdale, Arizona.

7 Q How long have you been employed with the Scottsdale,
8 Arizona Police Department?

9 A It will be six years this November.

10 Q What is your current position with the Scottsdale Police
11 Department?

12 A My current position is an auto crimes detective.

13 Q How long have you been an auto crimes detective?

14 A About three months.

15 Q What did you do before then?

16 A Before that, I was assigned to patrol.

17 Q What were your responsibilities on patrol?

18 A In patrol, it's basically anything from a barking dog to
19 the first responders on a homicide, including traffic
20 enforcements, any type of calls from citizens, medical
21 assistance and so on.

22 Q How long were you a patrol officer?

23 A About five years from the time I left the academy to the
24 time I went to detective.

25 Q Did you have any duties prior to being a patrol officer?

1 A Prior to graduating the academy and going off on my own
2 as a sole officer, no.

3 Q Could you describe the extent of your educational
4 background?

5 A I received an associate's degree from Mesa Community
6 College in Arizona. I received a bachelor of arts in
7 journalism and public relations from Arizona State in 1999.

8 Then I attended the Arizona Law Enforcement Academy,
9 which is a seventeen-week academy. After graduating there,
10 Scottsdale has an in-house -- it's called a post-academy
11 program, which is four weeks long, and then a sixteen-week
12 field training with numerous senior officers and senior
13 training officers.

14 Q Just so that we here in Brooklyn understand, where in
15 relation to Phoenix is Scottsdale?

16 A Scottsdale is to the east of the Phoenix. Scottsdale,
17 it's a long, narrow city, and it ranges from the border of
18 Tempe, where Arizona State is located, and it travels north a
19 good ways. I think it's sixty or sixty-five miles, depending
20 on how much land has been annexed.

21 Q During your time as a -- withdrawn.

22 I'm going to direct your attention to May 18 of
23 2006.

24 Were you working as a patrol officer with the
25 Scottsdale Police Department.

1 A Yes.

2 Q What were your duties and responsibilities back then?

3 A The same as in general patrol: Answering calls for
4 service, be it traffic or medical-related, any type of call
5 for service that would kick out over the radio on view
6 activity, such as check subjects and business, things of that
7 nature.

8 Q Did you have a particular section or a particular sector
9 that you were responsible for?

10 A Yes.

11 At that time, I did have a particular section. The
12 City of Scottsdale, as far as the Police Department is
13 concerned, is broken up into three districts and twenty
14 separate beats. Beats 1 through 7 is in the south part of the
15 city, which is District 1, and at that time, I was responsible
16 for Beat 3, which is the southwestern portion of that
17 district.

18 Q In terms of geographical area, how big is that area?

19 A My particular beat?

20 Q Yes.

21 A Probably, hazarding a guess as far as square mileage, my
22 particular beat is eight to ten square miles. It's not
23 extremely large. It's one of the larger beats in that
24 district.

25 Q In that beat, were you familiar with an establishment

1 called the Skin Cabaret?

2 A Yes.

3 Q Could you describe what the Skin Cabaret is?

4 A It's a gentlemen's club, for lack of a better term, a
5 strip club.

6 Q Where is that located? Do you know the street address?

7 A 1137 North Scottsdale Road.

8 Q Are you also familiar with an establishment called the
9 British Pub?

10 A Yes.

11 Q What is that?

12 A That's a bar located in a strip mall, known as Papago
13 Plaza. The Papago Plaza takes up pretty much the entire
14 portion, the southwestern portion, of the intersection of
15 Scottsdale and McDowell, which is a fairly large intersection
16 in our state.

17 Q In relation to the Skin Cabaret, could you describe for
18 the members of the jury where the British Pub would be
19 located?

20 A Skin Cabaret is located on the east side of the
21 Scottsdale Road. Scottsdale Road in this area is three lanes
22 abreast each direction, so it's six lanes total, and then a
23 double left-hand-turn lane with periodic raised medians for
24 the center. So, it's essentially 7 lanes wide.

25 British Open Pub is set off from the street, which

1 means there's a parking lot in between the street and the
2 actual establishment. So, if you're walking in a straight
3 line, it's probably maybe 150 to 200 yards from the front door
4 of Skin to the front door of the British Open.

5 Q North Scottsdale Road, is that an east-west or a
6 north-south road?

7 A That's a north-south road.

8 Q And the Skin Cabaret, is that at a particular
9 intersection or corner?

10 A It's at a T-type intersection. Scottsdale Road, it makes
11 a thoroughfare, and the east-west road is Bellevue, which,
12 once you -- if you're turning eastbound from Scottsdale Road,
13 it immediately turns into a residential section. The road is
14 maybe twenty-five feet wide, and the sidewalk on either side,
15 and we call them duplexes or quadplexes, apartment complexes
16 lining the road.

17 Q The Skin Cabaret, in which area is that in relation to,
18 the intersection of Scottsdale and Bellevue did you say?

19 A Correct. It is on the southeast corner of Scottsdale and
20 Bellevue.

21 Q So, if a person were standing on the southeast corner of
22 Scottsdale and Bellevue, where would the British Pub then be?

23 A If you were facing to the north, it would be to your
24 left. It's north and west of Skin Cabaret.

25 Q That was about 150, 200 yards?

1 A Thereabout.

2 Q Again, standing at the corner of Bellevue and North
3 Scottsdale Road, are there any signs for the British Pub?

4 A There is a sign on the front of the British Pub, but you
5 would be hard-pressed to see it, unless you were looking for
6 it.

7 MR. DAYAN: Objection.

8 THE COURT: Overruled.

9 Q Again, directing your attention to May 18 of 2006, were
10 you working that day in your capacity as a patrol officer in
11 the Scottsdale Police Department?

12 A Yes.

13 Q Do you recall what your tour of duty was that day?

14 A That evening was 9:00 o'clock at night to 7:00 o'clock in
15 the morning.

16 Q When you worked as a patrol officer, were you in uniform,
17 or plainclothes?

18 A Uniform.

19 Q Did you have a partner?

20 A No.

21 Q Did you have a police car, or foot patrol?

22 A I had a fully marked police car.

23 Q Directing your attention to approximately 11:40 that
24 evening, did you receive any calls?

25 A Yes. I was dispatched to a call of two subjects

1 attempting to pass what they believed was fraudulent currency
2 at Skin Cabaret.

3 Q What did you do after hearing that?

4 A At that point, I was en route to the call, and there was
5 another patrol officer that was assigned with me.

6 Q Who was that?

7 A There was -- I don't recall the second officer, but
8 another officer ended up being close by, which was our canine
9 officer, Alvarado.

10 Q David Alvarado?

11 A Yes.

12 Q You were in radio communication with David Alvarado?

13 A Yes.

14 Q After getting that call, did you go anywhere in
15 particular?

16 A I went straight to Skin Cabaret.

17 Q Did you go with anyone to Skin Cabaret?

18 A I was the first one to arrive on scene.

19 Q First police officer?

20 A Yes.

21 Q Describe for the members of the jury what happened when
22 you arrived at the Skin Cabaret.

23 A When I arrived at Skin Cabaret, I was met by an employee,
24 and I don't remember the employee's name. The comment of the
25 call, while I was en route, from dispatch stated that the two

1 subjects --

2 MR. DAYAN: Objection.

3 THE COURT: Sustained.

4 Q Don't tell us what the contents of the call were. When
5 you arrived at the Skin Cabaret, you testified that you spoke
6 with a male employee; correct?

7 A Yes.

8 Q What was the topic of the conversation with the male
9 employee, without telling us specifically what was discussed?

10 A The employee told me that --

11 MR. DAYAN: Objection.

12 THE COURT: Sustained.

13 You can't say what the employee said. You can only
14 say what you said.

15 But you had a conversation with this employee. What
16 was the subject of that conversation?

17 THE WITNESS: I'm sorry.

18 A I asked where the subject was that we were supposed to be
19 looking for.

20 Q Were you given an answer?

21 A Yes.

22 Q What did you do after you were given an answer?

23 A I contacted a male subject that was standing over on the
24 southeast corner of Scottsdale and Bellevue.

25 Q How far away was the northeast corner of the Scottsdale

1 and Bellevue when you left the Skin Cabaret and went there?

2 How far away was that person?

3 A I would say probably forty feet, with the width of the
4 road being about twenty-five feet.

5 Q What is that person alone, or with anyone?

6 A By himself.

7 Q When you saw that person, what did you see that person
8 doing?

9 A The person was just standing on the corner.

10 Q At the corner of -- withdrawn.

11 Was that the southeast corner of Bellevue and
12 Scottsdale.

13 A No. The person was standing on the northeast corner of
14 Scottsdale and Bellevue.

15 Q So, that's across the street from Bellevue?

16 A Correct.

17 Q Is there any sort of traffic light at that T
18 intersection?

19 A No. There is a stop sign for westbound traffic on
20 Bellevue at Scottsdale.

21 Q And when you approached that individual, what did you do?

22 A I asked the subject if he knew why the police were there
23 and why I was contacting him.

24 Q And did that person respond?

25 A Yes.

1 Q What did you do after he responded?

2 A I inquired whether he had any problems inside the club
3 with any currency that he tried to pay the cashier with.

4 Q And did that person -- did you subsequently ask that
5 person for identification?

6 A Yes, I did.

7 Q Was any identification presented?

8 A Yes.

9 Q Did you check the identification?

10 A Yes.

11 Q What was presented, do you recall?

12 A I believe it was an alien-resident card.

13 Q And in addition?

14 A That was the only form of ID.

15 Q What name appeared on the card?

16 A It was Radj Yusupov.

17 Q And the person that you spoke to identified himself as
18 Radj Yusupov?

19 A Yes.

20 Q After you had that conversation, what did you do?

21 A There was another patrol officer on the scene, and I
22 asked that patrol officer to stay with Radj, and I responded
23 back to Skin Cabaret to speak to the person who was working
24 the cash register.

25 Q Do you recall the name of that person?

1 A Andrea Lopez.

2 Q When you went to go back to the Skin Cabaret to speak
3 with Andrea Lopez, were you alone?

4 A Yes.

5 Q When you went back, without telling us specifically the
6 words said, what was the subject of the conversation?

7 A The currency that was presented.

8 Q What, if anything, did you do when you went to go -- when
9 you were with Andrea Lopez?

10 A I ultimately took custody of two fraudulent \$100 bills.

11 Q What did you do with those two \$100 bills?

12 A Later in my shift, in the vehicle, I impounded them as
13 evidence in our District 1 station.

14 Q When you impounded that, is that -- what do you mean by
15 that?

16 A With our report-writing system, a property voucher with a
17 description of the property and a number that is used to track
18 it within our own system is generated, and I also placed the
19 bills inside a tan property envelope, which was later sealed.

20 Q Did you take a look at those bills --

21 A Yes.

22 Q -- those two \$100 bills?

23 A Yes.

24 Q Did you have any training in identifying counterfeit
25 currency as a police officer?

1 A No, I do not.

2 Q On the counterfeit bills that you took, did you look at
3 them?

4 A Yes.

5 Q Was anything written on the bills?

6 A Yes.

7 Q What was written on the bills?

8 A There was the word "Fake" that was written on both bills.

9 Q After you put -- withdrawn.

10 What did you do with the bills in relation to that
11 envelope that you spoke about.

12 A I placed them inside the envelope, and that envelope was
13 placed inside a locked property locker.

14 Q Did that envelope and those bills, were they subsequently
15 given to the Secret Service?

16 A They were.

17 Q That evening of May 18 and the morning of May 19, did you
18 arrest anyone?

19 A I did.

20 Q Who did you arrest?

21 A I arrested Radj Yusupov.

22 Q Were you the arresting officer for anyone else that
23 evening?

24 A Yes.

25 Q Who?

1 A For Eduard Yusupov.

2 Q And what, if anything, did you do regarding the arrest of
3 Edward Yusupov?

4 A I completed all the necessary booking procedures at our
5 District 1 station.

6 Q What procedures are those?

7 A We have a new report-writing system. It's -- all the
8 information is electronic. Inputted the name, date of birth,
9 address, that type of information, along with the charges into
10 our system, which was later added onto by our detention
11 officers with the booking photo and fingerprints.

12 Q And that information, did you get that from the person
13 identified as Eduard Yusupov?

14 A I believe I got it from one of the other officers, who
15 identified him and gave it to me, and I completed the
16 paperwork.

17 Q Did you see that person Eduard Yusupov that day?

18 A Yes.

19 Q Would you believe that you would recognize him today?

20 A Yes.

21 Q I would like you to take a look around the courtroom, and
22 if you see him, please point him out.

23 A It's the gentleman seated to my far left, in the white
24 longsleeved shirt with the unbuttoned collar.

25 MR. CAMPOS: Your Honor, may the record reflect that

1 the officer identified the defendant?

2 THE COURT: It may.

3 MR. CAMPOS: May I approach?

4 THE COURT: You may.

5 Q I'm going to hand you what has previously been marked as
6 7, 8 and 9, which has been previously shown to defense
7 counsel.

8 MR. DAYAN: May I see it again, please?

9 (Pause.)

10 MR. DAYAN: I have no objection.

11 THE COURT: Do you want it in evidence?

12 MR. DAYAN: Yes. I have no objection.

13 THE COURT: Okay. Received.

14 (So marked.)

15 MR. CAMPOS: I'll show them to the witness.

16 THE COURT: Go ahead.

17 BY MR. CAMPOS:

18 Q You've been handed Government's Exhibits 7, 8 and 9 in
19 evidence?

20 Do you see it.

21 A Yes.

22 Q Exhibit 9, what is that?

23 A Exhibit 9 is a tan-colored or manila-colored -- excuse me
24 -- property envelope used by the Scottsdale Police Department.

25 Q It has handwriting on it; correct?

1 A Yes.

2 Q Whose handwriting is that?

3 A The handwriting is mine.

4 Q And Exhibits 7 and 8, do you see that?

5 A Yes.

6 Q What are those?

7 A Those are the two \$100 bills that I impounded into
8 Property as evidence that evening.

9 Q And is there any writing on the face, on the front of it?

10 A Yes.

11 Q Did you write that?

12 A I did not.

13 Q And what does it say?

14 A It says "Fake."

15 MR. CAMPOS: Your Honor, may I approach?

16 THE COURT: You may.

17 MR. CAMPOS: These are now received into evidence;
18 correct, your Honor?

19 THE COURT: Yes.

20 MR. CAMPOS: Your Honor, I have no further questions
21 of this witness, and I'll wait until the end of the day to
22 publish anything, with the Court's permission.

23 THE COURT: All right.

24 Cross-examination.

25 CROSS-EXAMINATION

1 BY MR. DAYAN:

2 Q Mr. Burkmier, my name is Albert Dayan. I'm Mr. Yusupov's
3 counsel?

4 Would it be fair to say that you were the arresting
5 officer of Mr. Yusupov on May 18 of 2006.

6 A As far as Eduard is concerned, yes. As far as the
7 paperwork is concerned, yes, I was.

8 Q Are you familiar that the case -- that the criminal
9 charges that you had written up as Eduard Yusupov were never
10 initiated?

11 A The charges were filed, but they were turned down by the
12 Maricopa County Superior Court.

13 Q Did you ask Eddie, on May 18, whether he knew that the
14 counterfeit currency in his possession was counterfeit?

15 A I did not speak to him directly, no, sir.

16 Q Did you speak to him indirectly?

17 A No.

18 Q Do you know if anybody asked Eddie Yusupov, on May 18,
19 whether he knew that the counterfeit currency in his
20 possession was counterfeit?

21 A I believe another officer did, but I did not ask him.

22 Q Do you know what Eddie's answer was?

23 MR. CAMPOS: Objection, your Honor.

24 THE COURT: I'm going to sustain it.

25 Q Do you know that there was other currency, United States

1 currency, that was found in Mr. Yusupov's possession on
2 May 18, 2006, when you had arrested him?

3 A Yes, I'm aware he did have other currency with him.

4 Q Are you aware that some of that currency was a \$100 bill?

5 A Yes.

6 Q Are you aware that that \$100 bill, along with other
7 currency that was found in his possession, was not
8 counterfeit?

9 A Yes.

10 Q Are you aware that Eduard Yusupov and his brother --
11 withdrawn.

12 Did you learn, on May 18, that there was a vehicle,
13 a car, that was parked in the parking lot that had belonged to
14 Mr. Yusupov's brother on May 18.

15 A Yes.

16 Q And did you learn that they actually had driven to the
17 nightclub on May 18?

18 A Yes.

19 Q And did you search that vehicle?

20 A Personally, I did not.

21 Q Do you know whether other law enforcement agents had
22 searched that vehicle?

23 A A search warrant was written, yes.

24 Q Can you please tell this jury if there was any other
25 currency, counterfeit currency, that was found in the vehicle

1 that Eddie and his brother drove to the nightclub?

2 A There was nothing else found in the vehicle.

3 Q So, based upon all is that information and information
4 that you had just testified to to this jury, the Superior
5 Court of Arizona declined to prosecute Eddie Yusupov; is that
6 correct?

7 MR. CAMPOS: Objection, your Honor.

8 THE COURT: I'll sustain it.

9 Q Everything you have just testified to to this jury you
10 had relayed that to the Superior Court of Arizona; is that
11 correct, to the prosecutor of the Superior Court of Arizona?

12 MR. CAMPOS: Objection.

13 THE COURT: I'll allow that.

14 A Can you repeat that, sir? I'm sorry.

15 Q Isn't it true that everything you have just testified to
16 in this court, that you had relayed that information to the
17 prosecutors in Superior Court, Arizona?

18 A Yes.

19 It was all included in the report that was
20 submitted.

21 Q And based upon your report, a decision was made that Ed
22 Yusupov was not going to be prosecuted?

23 MR. CAMPOS: Objection, your Honor.

24 THE COURT: Sustained.

25 Q Would it be fair to say that when you questioned Eduard

1 Yusupov's brother about their means of transportation to the
2 nightclub, that he was evasive?

3 A I would believe that would be fair to say, yes.

4 Q And is it a crime to drive a vehicle in Arizona when you
5 are intoxicated?

6 A Yes.

7 Q And isn't it true that you had observed and, in fact, you
8 had written a follow-up report that you had observed that
9 Mr. Yusupov was intoxicated?

10 A He did have signs and symptoms that are consistent with
11 alcohol consumption, yes.

12 Q Did that lead you to believe that that may be why he's
13 evasive about what his means of transportation to the club
14 were?

15 MR. CAMPOS: Objection, your Honor.

16 THE COURT: What the question, again?

17 MR. DAYAN: Whether it led the officer to believe --
18 whether that -- can we have that question read back, Judge,
19 please?

20 THE COURT: Sure.

21 (Record read.)

22 THE COURT: Sustained. Next question.

23 MR. DAYAN: Yes.

24 Q You also testified about Radj Yusupov, that's Eduard
25 Yusupov's brother, who was standing on the corner when you had

1 first observed him; correct?

2 A Correct.

3 Q Would it be fair to say that at approximately 11:40 p.m.,
4 approximately 12:00 o'clock midnight, he would be the only
5 pedestrian on that corner?

6 A He was; correct.

7 Q So, you didn't perceive it as if he was trying to blend
8 in with the rest of the crowd?

9 A No.

10 Q He was not running away from you?

11 A No, he was not.

12 Q When, for the first time on the evening in question,
13 which is May 18, did you first observe Ed Yusupov?

14 A I actually saw him myself in the jail.

15 Q And you came to learn, on the night in question, that
16 Mr. Yusupov was in bar across the street from the nightclub
17 where the -- excuse me.

18 MR. DAYAN: One second, your Honor.

19 Q You had found him in the British Pub?

20 A Yes.

21 Q Not you, but other officers?

22 A Correct.

23 Q He, too, was not running away?

24 A No.

25 Q Did you come to learn that he in fact was having a beer

1 in the British Pub?

2 A Yes.

3 Q Did you come to learn, when he paid his bill at the
4 British Pub, that bill was checked and proved to be not
5 counterfeit?

6 A Correct.

7 Q Did you come to learn that Eduard Yusupov and his brother
8 were notified that police were going to be called?

9 A Yes.

10 Q And did you come to learn that Eduard Yusupov and his
11 brother chose to remain and not to run away?

12 A Well, they both left the club, though, Skin.

13 Q How long after you got the run on the radio did it take
14 you to arrive to the club?

15 A I can say less than ten minutes. Probably around five.

16 Q Less than ten minutes. During those ten minutes, they
17 could have got into the car and drove pretty far away;
18 correct?

19 MR. CAMPOS: Objection, your Honor.

20 THE COURT: I'll sustain the objection.

21 Q Did there come a time, on the night in question, when you
22 learned that the reason they left the club was because they
23 were not welcome in the club?

24 MR. CAMPOS: Objection, your Honor.

25 THE COURT: Did you learn that?

1 THE WITNESS: No.

2 Q You come to learn that they did not let them into the
3 club?

4 A They returned the \$100 bill that was not fraudulent.
5 They returned that, but they did not accept the two fraudulent
6 \$100 bills. Does that answer your question?

7 Q No.

8 I'm asking you, even when they were offered another
9 \$100 bill, they were just not welcome in that club --

10 MR. CAMPOS: Objection, your Honor.

11 Q -- if you know that?

12 A That, I don't know.

13 MR. DAYAN: May I show the document to the witness
14 marked as Defendant's Exhibit A?

15 THE COURT: Defendant's Exhibit?

16 MR. DAYAN: Yes.

17 THE COURT: Show it to your adversary.

18 (Pause.)

19 MR. DAYAN: Judge, I have to put a tag on it. Can I
20 show it to him and get my tag?

21 THE COURT: Go ahead.

22 You are showing him Defendant's Exhibit A for
23 identification?

24 MR. DAYAN: For identification.

25 THE COURT: Okay.

1 What is Defendant's Exhibit A for identification?

2 THE WITNESS: It's a Clerk of the Court, Superior
3 Court of Arizona -- this states that the --

4 THE COURT: You can't read from it.

5 THE WITNESS: I'm sorry?

6 It basically states --

7 THE COURT: You can't read from it.

8 THE WITNESS: I'm not sure how to word this, then,
9 sir.

10 MR. CAMPOS: Your Honor, there isn't a question
11 pending.

12 THE COURT: That's right. You just identified it.
13 That's it.

14 THE WITNESS: Okay.

15 BY MR. DAYAN:

16 Q Are you familiar with that document?

17 A This is the first time I have seen it.

18 Q It's the first time you've seen this particular document?

19 A Yes.

20 Q But is it the first time that you have seen such a
21 document?

22 A No.

23 Q So, you've seen these types of document before?

24 A Correct.

25 Q And isn't it true that this type of document is produced

1 in the regular course of business by the Superior Court of
2 Arizona in explaining what the disposition or how the case
3 against Eduard initiated and how it ended?

4 MR. CAMPOS: Objection, your Honor.

5 THE COURT: Sustained.

6 Q Would it be fair to say that this document was prepared
7 in the ordinary course of business?

8 MR. CAMPOS: Objection.

9 THE COURT: Sustained.

10 MR. DAYAN: Can I move this document into evidence?
11 Is the government objecting to it?

12 MR. CAMPOS: Your Honor, the proper foundation
13 hasn't been laid, and I don't believe that it can be laid with
14 this witness.

15 THE COURT: I'll sustain it, then.

16 Q You did prepare certain reports in connection with the
17 arrest of Ed and Radj Yusupov?

18 A Yes.

19 Q Were there any \$20 fake bills that were passed on the
20 night in question?

21 A Were there any passed?

22 Q Yes, by Ed Yusupov and his brother Radj.

23 A Not to my knowledge, no.

24 Q Do you remember preparing a report where you indicated
25 that a fake 20 bill was passed? Do you recall making such a

1 report?

2 A That one was actually passed?

3 Q Yes, I believe so. Do you remember making that report?

4 A That was noted in my report, no.

5 MR. DAYAN: May I show something that's Defendant's
6 Exhibit B?

7 THE COURT: Go ahead.

8 (Pause.)

9 MR. DAYAN: Judge, may I approach the witness?

10 THE COURT: You may.

11 Q This is Defendant's Exhibit B. Please identify this as
12 your report or not.

13 THE COURT: What is Defendant's Exhibit B?

14 I'm talking to the witness.

15 MR. DAYAN: Yes.

16 A I'm sorry. It's a face sheet from our departmental
17 report.

18 Q Did you prepare that face sheet?

19 A That's kind of a tricky question. The face sheet,
20 different information can be entered in by different officers.
21 While I did prepare a majority of it, I don't recall
22 impounding a \$20 bill. If there was one that was impounded,
23 another officer did it, it would still show up on this face
24 sheet.

25 THE COURT: You say you don't remember preparing it?

1 THE WITNESS: No. I do remember preparing the face
2 sheet. Other officers, with our report-writing system, other
3 officers can input property that would show up on the face
4 sheet, even though I may not have done it.

5 Does that answer your question, sir?

6 Q You don't know whether you are the one who actually
7 prepared that report, that particular report?

8 A I'm not sure I'm understanding your question.

9 Our report-writing system, until it is locked,
10 numerous officers can enter information into it. While I
11 entered the majority of this information, if another officer
12 entered the property information into the computer system,
13 that information would generate on this face sheet, even
14 though I myself may not have done it. They could have entered
15 it after I was already completed with my end. Does that make
16 sense? I don't know if I'm explaining it correctly.

17 Q You are explaining. It's not the answer that I was
18 looking for. You are explaining it.

19

20 MR. DAYAN: I have nothing further of this witness,
21 your Honor.

22 THE COURT: Redirect?

23 MR. CAMPOS: Just a few questions.

24 MR. DAYAN: Can I get my papers back, your Honor?

25 Is that okay if I approach the witness to get my papers back?

1 THE COURT: Okay.

2 That's Defendant's Exhibits A and B; right?

3 MR. DAYAN: Yes.

4 REDIRECT EXAMINATION

5 BY MR. CAMPOS:

6 Q Sir, on cross-examination, you were asked whether or not
7 you saw Radj Yusupov running away; do you recall that?

8 A Yes.

9 Q And you responded that he was not running away; do you
10 recall that?

11 A Correct.

12 Q Do you recall in what direction he was faced when you
13 approached him?

14 A Not off the top of my head I do not.

15 Q When you approached him from the Skin Cabaret, did you
16 approach him by foot?

17 A Yes.

18 Q And how far away was he from you when you saw him from
19 the Skin Cabaret?

20 A Probably about forty feet.

21 Q Did you have him in your vision the entire forty feet --

22 A Yes.

23 Q -- as you approached him?

24 A Yes.

25 Q And during that forty-feet approach, did you see what

1 Radj Yusupov was doing?

2 A I could not tell what he was doing. It appeared that he
3 was just standing there.

4 Q Was he smoking?

5 A I don't recall.

6 MR. DAYAN: Objection, asked and answered.

7 THE COURT: I don't remember it. I'll allow it.

8 MR. DAYAN: He's leading.

9 THE COURT: Leading, anyway, yes.

10 MR. DAYAN: I'm objecting based on leading
11 questions.

12 MR. CAMPOS: I'll withdraw it.

13 THE COURT: I'll sustain that.

14 BY MR. CAMPOS:

15 Q Did you see any hand movements?

16 A None that I recall.

17 MR. DAYAN: Objection, your Honor. He's leading.

18 THE COURT: Sustained.

19 Q And when you approached that forty feet, was there any
20 traffic, as you recall, on North Scottsdale Road?

21 A There was traffic, but I don't remember the amount of
22 cars. It was normal for that time of evening.

23 Q You said that Scottsdale Road is three lanes in each
24 direction, north and south; correct?

25 A Yes.

1 Q Are there any traffic lights anywhere near the Skin
2 Cabaret and the British Pub?

3 A There is a traffic light that is north of both
4 establishments.

5 Q On cross-examination, you were asked about an automobile.
6 Do you recall that?

7 A Yes.

8 Q Whose automobile was that?

9 A I believe it was Radj Yusupov's.

10 Q Where was it parked?

11 A It was parked in the parking lot north of Skin Cabaret,
12 on the north side of Bellevue.

13 Q In relation to where you saw Radj Yusupov standing, where
14 was the automobile?

15 A The automobile was to the east from where he was
16 standing.

17 Q And the British Pub is in what direction from where he
18 was standing?

19 A To the left.

20 Q How far away was the automobile from where you saw Radj
21 Yusupov standing?

22 A I think it was between maybe and thirty and forty feet.
23 It's not a very large parking lot.

24 MR. CAMPOS: I have no further questions, your
25 Honor.

1 MR. DAYAN: None. Thank you.

2 THE COURT: Step down. Thank you.

3 THE WITNESS: Thank you, your Honor.

4 (Witness excused.)

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1 THE COURT: Next witness.

2 MR. CAMPOS: At this time the government calls
3 Andrea Lopez.

4 ANDREA LOPEZ,

5 called as a witness, having been first duly sworn,
6 was examined and testified as follows:

7 MR. CAMPOS: Your Honor, may I inquire?

8 THE COURT: You may.

9 DIRECT EXAMINATION

10 BY MR. CAMPOS:

11 Q Good afternoon, Miss Lopez. I'm going to ask you to keep
12 your voice up in this large courtroom and see if you can speak
13 into the microphone so that the jurors can hear and I'll try
14 to do the same.

15 A Yes.

16 Q Miss Lopez, could you please describe your educational
17 background.

18 A High school education.

19 Q Did you graduate from high school?

20 A No, I didn't.

21 Q How far did you go in high school?

22 A Tenth grade.

23 THE COURT: Where did you go to high school?

24 THE WITNESS: Phoenix, Arizona.

25 Q What was the name of the high school?

1 A Sunny Slope High School.

2 Q And what year did you stop attending high school?

3 A 1994.

4 Q Did you get any high school equivalency diploma or
5 anything like that?

6 A No, I haven't.

7 Q Could you describe for the members of the jury what your
8 employment history has been.

9 A I worked at Skin Cabaret for two and a half, three years.
10 I worked at a bank for a few months. I worked at several
11 other bars.

12 Q What years did you work at the Skin Cabaret?

13 A I believe it was 2003 to 2006.

14 THE COURT: What did you do there?

15 THE WITNESS: I was a hostess.

16 Q What were with your responsibilities and duties as a
17 hostess at the Skin Cabaret?

18 A I accepted cover charge and collected house fees from the
19 dancers.

20 Q What do you mean by collect house fees from the dancers?

21 A They had a fee that they had to pay each day to work and
22 I collected that and kept track of that.

23 Q Did you have regular hours at the Skin Cabaret?

24 A Yes.

25 Q What were your hours when you worked there?

1 A 6:00 p.m. to 2:00 a.m.

2 Q And the Skin Cabaret, where is that located?

3 A Scottsdale, Arizona.

4 Q And do you recall the street address?

5 A I don't.

6 Q Do you recall what street it's near?

7 A It's off of Scottsdale Road and McDowell.

8 Q What job did you have at the Skin Cabaret, did you have
9 only one job, the hostess job?

10 A The hostess job, yes.

11 Q During the time that you were employed at the Skin
12 Cabaret as a hostess, how much was the cover charge for
13 patrons going in?

14 A \$10 a person.

15 Q Other than collecting the \$10, did you have any other
16 responsibilities as a hostess?

17 A Just keeping track of the house fees for the dancers.

18 Q What time does the Skin Cabaret open?

19 A 11:00 a.m.

20 Q Was there a cover charge during the day?

21 A No. The cover charge started at 6:00 p.m.

22 Q If a patrons goes in, is identification required?

23 A Yes.

24 Q Who checks the identification?

25 A Either a doorman or myself or a bartender.

1 Q As the hostess, were you alone at a particular location
2 when you were at Skin Cabaret?

3 A A lot of times I was alone, yes.

4 Q And other times how, the other times you were not alone?

5 A The other times there would be a doorman up front with
6 me.

7 Q What, if any, training did you receive as a hostess for
8 Skin Cabaret?

9 A We received a little bit of training on the currency,
10 when the new bills would come out what to check for, what to
11 look for on the new currency.

12 Q And as a hostess did you check bills to determine whether
13 or not they were real or fake?

14 A Yes.

15 Q What would you look for?

16 A I would use a pen, I would look for the strips, the
17 watermarkings, the coloring of the money.

18 Q Anything else that you can remember?

19 A Not that I can recall, no.

20 Q Let me ask you some questions about -- finish up some
21 questions about your background.

22 Have you ever been convicted of a crime?

23 A No.

24 Q But have you been arrested?

25 A Yes.

1 Q When was that?

2 A When I was 17.

3 Q For what?

4 A Curfew.

5 Q What do you mean by that?

6 A Being out past a certain time, underage.

7 Q But you were never convicted of any crime associated with
8 that?

9 A No.

10 Q Do you have children?

11 A Yes, I do.

12 Q How old?

13 A Twelve and 14.

14 Q And do they live with you?

15 A They live with their father.

16 Q And after the Skin Cabaret did you get employment
17 elsewhere?

18 A No, I haven't.

19 Q Are you currently unemployed?

20 A Yes.

21 Q Directing your attention to May 18th of 2006. Were you
22 working at the Skin Cabaret that evening?

23 A Yes, I was.

24 Q What if anything happened that evening in regards to any
25 currency you received?

1 A I had received 2 one hundred dollar bills that did not
2 appear to be valid to me.

3 Q Okay. So when you received these bills were you alone as
4 a hostess or was somebody with you?

5 A I was alone.

6 Q When you received these bills did one person or more than
7 one person present them to you?

8 A More than one person.

9 Q How many?

10 A Two people, it was two people.

11 Q Did each hand you a bill?

12 A That I don't recall.

13 Q When you received these bills what did you do to them?

14 A I marked them with a pen.

15 Q What do you mean a pen?

16 A The currency pen to make sure that those -- the paper is
17 correct paper.

18 Q And if it was correct paper, as you describe it, what
19 would you expect to see?

20 A Just the marking on it. If it was fake it would have
21 shown a different color.

22 Q What did you see after you used the pen?

23 A I looked for the watermarking and --

24 Q And had you seen watermarkings before on bills?

25 A Yes.

1 Q What denomination bill are we talking about?

2 A Hundred dollar bill.

3 Q And what if anything did you notice about the
4 watermarkings on the 2 one hundred dollar bills that you were
5 looking at?

6 A It was too exact. It liked kind of computerized.

7 Q Did you notice anything else?

8 A The hundred dollar marking on the front was like a
9 different colored green.

10 Q And did you draw any conclusions -- without telling us
11 what conclusions you drew -- did you draw any conclusions
12 about that money?

13 A I had decided that it was fake money.

14 Q What did you do?

15 A I called my manager up to the front, went over the money
16 with him and told the fellows that had given me the money
17 that, you know, that I believed that it was fake money.

18 Q The two men that presented you the money, would you
19 recognize either of them today?

20 A Probably, yes.

21 Q Would you please take a look around the courtroom and if
22 you see anyone please point him out and identify him for the
23 record.

24 MR. DAYAN: Objection as to the form of the
25 question, Judge.

1 THE COURT: What was the question?

2 (Record read.)

3 THE COURT: What's wrong with that?

4 MR. DAYAN: Previously she was asked whether she
5 recalls who in fact passed the bills and she says she didn't
6 recall. Now I'm just a little bit confused about the
7 question. Who is she identifying, the person who was there,
8 the person who --

9 THE COURT: Ask the question who she's identifying.

10 MR. CAMPOS: I will ask it again.

11 Q There were two men that came to you and gave you 2 one
12 hundred dollar bills that you analyzed, that you looked at;
13 correct?

14 A Right.

15 Q Would you recognize either of these two men today?

16 A Yes.

17 Q If you would look around the courtroom and if you see
18 either of those two men today, would you please point him out
19 and identify him by an article of clothing that he's wearing
20 for the record.

21 MR. DAYAN: Objection, Judge.

22 THE COURT: I will allow it.

23 A The gentleman sitting over there in the white shirt.

24 MR. CAMPOS: May the record reflect that the witness
25 has identified the defendant?

1 THE COURT: The record so reflects.

2 Q Now, the bills that you got, did you say anything about
3 what you thought about those bills to the defendant?

4 A I told him that I thought they were counterfeit money.

5 Q And did the defendant respond when you said that, did he
6 say anything?

7 A He told me that he had --

8 MR. DAYAN: Objection.

9 THE COURT: No.

10 This defendant?

11 MR. CAMPOS: Correct.

12 THE COURT: I will allow it.

13 A He had told me that he had sold a car and that's where he
14 had gotten the money.

15 Q What happened after that?

16 A He tried to give me another hundred dollar bill and asked
17 for the two back.

18 Q So the defendant -- what did he ask?

19 A He had asked for the 2 hundred dollar bills back that he
20 had given me.

21 Q And in exchange for something?

22 A In exchange for another hundred dollar bill.

23 Q What did you say in response to that?

24 A I told him no, that I was going to contact the police.

25 Q What did you do?

1 A I contacted the police.

2 Q Then what happened?

3 A The two men had left and the police were notified and
4 came to check out the money.

5 Q The two bills that you received, did you do anything to
6 those two bills?

7 A The only thing I did was mark them with a pen when I
8 tested them when I first received them, and then I set them
9 aside with my manager until the police arrived.

10 Q And did you write anything?

11 A No.

12 Q I'm going to hand you what has been previously marked
13 into evidence as Government's Exhibits 7 and 8.

14 MR. DAYAN: Objection.

15 THE COURT: What are you objecting to?

16 MR. DAYAN: He asked her whether she had written
17 something on the bill. She said no.

18 THE COURT: Now he's going to hand her something.
19 Overruled.

20 What are you handing her?

21 MR. CAMPOS: Exhibits 7 and 8, your Honor.

22 THE COURT: All right.

23 Q Take a look at Government Exhibits 7 and 8, please.

24 A Yes.

25 Q Look at the back of the bills. Do you see any

1 handwriting on the back of the bills in the margins, the
2 light-colored area?

3 A Yes, I do.

4 Q Is any of that your handwriting?

5 A No, it's not.

6 Q Look at the front of the bill.

7 Do you see any handwriting on the front of the
8 bills?

9 A Yes.

10 Q Is that your handwriting?

11 A No.

12 Q Whose handwriting is it?

13 MR. DAYAN: Objection.

14 THE COURT: I will allow it.

15 Do you know whose handwriting it is?

16 THE WITNESS: I don't.

17 MR. CAMPOS: Just a moment, your Honor.

18 (Pause.)

19 BY MR. CAMPOS:

20 Q The bills that you received from the defendant, were they
21 the same color as -- the same dark color as Exhibits 7 and 8?

22 MR. DAYAN: Objection. Leading.

23 THE COURT: Sustained.

24 Q Were they the same color?

25 A Yes.

1 Q As far as you recall?

2 A As far as I recall, they were.

3 Q After you received the bills and put them to the side,
4 what did you do?

5 A I contacted the police.

6 Q And were the bills subsequently given to the police?

7 A Yes.

8 Q You testified that the defendant offered another hundred
9 dollar bill; do you recall that?

10 A Yes.

11 Q What was the purpose -- what caused you not to accept it?

12 A I'm sorry?

13 Q You didn't take another hundred dollar bill?

14 A No, I didn't.

15 Q What caused you not to take it?

16 A Just receiving these two bills that had appeared to be
17 fake, I wasn't going to allow him in the club or accept any
18 other money from him.

19 Q And did you tell the defendant that you were going to
20 call the police?

21 A Yes.

22 Q And did he say anything in response?

23 A He had just told me he would give me another hundred
24 dollar bill and --

25 THE COURT: You've gone over this before.

1 Q And what if anything did you see the defendant do after
2 you told him you were going to call the police?

3 A He left the club.

4 Q And did you see him again?

5 A No.

6 MR. CAMPOS: I have no further questions, your
7 Honor.

8 THE COURT: Cross.

9 CROSS-EXAMINATION

10 BY MR. DAYAN:

11 Q Miss Lopez you testified -- by the way, I'm Albert Dayan,
12 I'm Mr. Yusupov's attorney.

13 You testified that you received 2 one hundred dollar
14 bills that proved to be forgeries, counterfeit; correct?

15 A Correct.

16 Q In your opinion they were forgeries?

17 A Correct.

18 Q And you told Mr. Yusupov and this other individual who is
19 his brother that you believed them to be counterfeit?

20 A Correct.

21 Q Correct?

22 A Yes.

23 Q And as you testified, Mr. Yusupov explained to you that
24 he sold a car and this is the money he had and he was willing
25 to offer you another hundred dollar bill for you to check

1 whether it was counterfeit or not?

2 A Right.

3 Q And, in fact, Mr. Yusupov asked you for those \$200 back;
4 correct?

5 A Correct.

6 Q Now, you didn't tell -- when you declined to give
7 Mr. Yusupov back the \$200, you didn't tell him that you were
8 an expert in evaluating whether money was counterfeit or not;
9 correct?

10 A No.

11 Q So Mr. Yusupov had no reason to believe whether your
12 detection was accurate or not?

13 THE COURT: Sustained.

14 Q Did you tell Mr. Yusupov how you made the determination
15 whether it was counterfeit or not?

16 A Yes.

17 Q What did you explain to him?

18 A I had explained to him that the watermarking was too
19 dark, didn't look correct and the 100 dollars on the front had
20 looked too big, different color from --

21 Q Sorry, go ahead. I apologize.

22 A -- from the training that I had gotten.

23 Q Did you ask Mr. Yusupov whether he had received the same
24 time of training as you?

25 A No.

1 Q Did you ask Mr. Yusupov whether he knew what a watermark
2 marking on a bill was?

3 A No, I did not.

4 Q Isn't it true though that when you had checked the bill
5 with a pen they tested good?

6 A Correct.

7 Q And you notified Mr. Yusupov that the bills had tested
8 good, if you recall?

9 A I don't recall whether or not I did that.

10 Q You testified earlier that Mr. Yusupov attempted to give
11 you another hundred dollar bill?

12 A Correct.

13 Q Correct? As you sit here today, do you know for sure
14 whether Mr. Yusupov and that other individual who was with him
15 actually offered you \$200 more rather than a hundred? In
16 other words, that they offered to exchange the two for two
17 other bills; do you recall that?

18 A No, I don't recall that, no.

19 Q Well, I want to show you Government Exhibit 3500 material
20 AL 1.

21 Please take a look at this and see if this refreshes
22 your recollection.

23 MR. DAYAN: May I, Judge?

24 THE COURT: This is Government Exhibit 3500 AL 1?

25 MR. DAYAN: Correct.

1 Q The highlighted portion. (Handing.)

2 Can you please tell this jury whether that letter
3 was written by you?

4 A Yes.

5 Q And does that letter refresh your recollection?

6 A Yes.

7 Q And do you remember now that at the time when you wrote
8 that letter you had indicated that the two men had offered you
9 two bills in exchange for the two bills that they had given
10 you?

11 A Yes.

12 Q And that letter was written -- do you remember when that
13 letter was written?

14 A A few months ago. I don't recall the exact date.

15 Q When you had written that letter, William Campos was not
16 standing over you, correct, you wrote that being by
17 yourself -- were you by yourself when you wrote that letter?

18 A I was with two agents. I'm not sure of their names.

19 Q Mr. Campos was not there?

20 A No.

21 MR. DAYAN: Judge, can I walk over? I want to get
22 the letter back.

23 THE COURT: Yes.

24 BY MR. DAYAN:

25 Q I am going to take these bills that are in your

1 possession.

2 MR. DAYAN: Is that all right, Judge?

3 THE COURT: Yes.

4 Q I want to question you about them.

5 So can you -- if this letter refreshes your
6 recollection, can you please tell this jury which one is it,
7 is it that they tried to give you one bill in exchange for the
8 two bills or two bills in exchange for the two bills, and if
9 you don't remember then you don't remember. Please try not to
10 guess.

11 A I honestly don't remember.

12 Q Prior to your testimony here today, isn't it true that
13 you had spoke to Mr. Campos about your testimony here today?

14 A Yes.

15 Q And when was the last time you had spoken to Mr. Campos
16 about your testimony here today?

17 A Maybe a week ago, two weeks ago.

18 Q And you discussed your testimony here, that you were
19 going to give here today?

20 A Right.

21 Q Incidentally, is it unusual in your business, the
22 gentleman's club business, for patrons to come in with large
23 bills in order to get change, particularly dollar bills, so
24 this way they can tip the dancers?

25 A Is that unusual? No.

1 Q So it is common then for people to come in with large
2 bills in hopes of getting change from the cashier?

3 A Yes.

4 Q Do you remember when these bills were given to you and
5 after you had ascertained they were counterfeit, you refused
6 to give them back; correct?

7 A Correct.

8 Q And, in fact you had given the two patrons, Eddie and
9 this other individual that was with him, an opportunity to
10 leave and leave the bills behind with you?

11 A I had told them that I was contacting the police and at
12 that time they left.

13 Q My question is, prior to that -- prior to that, isn't it
14 true that you gave them an opportunity to leave without
15 calling the police, in other words, you said, I'm not going to
16 give this back to you, and it is only when they insisted that
17 they want the bills back because they did not necessarily
18 believe you, or your assessment, that's when you called the
19 police?

20 MR. CAMPOS: Objection to the form, your Honor.

21 THE COURT: I will sustain it.

22 Q Isn't it true that you and Eddie and/or that other
23 individual had a discussion about the bills before you called
24 the police?

25 A Yes.

1 Q And how long was that discussion, do you recall?

2 A It wasn't very long.

3 Q According to your testimony here today, you were standing
4 outside in the hallway, correct?

5 A Yes.

6 Q And when you were standing outside in the hallway, you
7 were standing next to a police officer who testified
8 previously in this case, the tall gentleman?

9 A Yes.

10 Q And isn't it true that when Eduard passed by to walk into
11 the courtroom, you and that officer were discussing whether
12 that is indeed the individual who you were going to testify
13 against, that you were not sure?

14 A No.

15 Q Do you remember asking the officer the question whether
16 that was the individual you were going to testify against?

17 A No. I had said that was the individual.

18 Q Was he asking you the question then?

19 MR. CAMPOS: Objection, your Honor.

20 THE COURT: I will allow it.

21 A I don't believe he did.

22 (Pause.)

23 THE COURT: Let's go.

24 MR. DAYAN: I'm moving along, Judge.

25 Q You were asked about these hundred dollar bills and

1 whether you had written anything on them. Do you remember
2 those questions?

3 A Yes.

4 Q How reliable do you believe your recollection is, are you
5 someone who has -- do you consider yourself as someone who has
6 a good memory?

7 MR. CAMPOS: Objection, your Honor.

8 Q -- about events that are important?

9 THE COURT: I'm going to sustain it.

10 Q Well, do you remember telling agents in this case on
11 previous occasions that it was actually you who had written on
12 the bills, particularly the word "fake"?

13 A No.

14 Q And you are sure about that?

15 MR. CAMPOS: Objection, your Honor.

16 THE COURT: I will sustain it. She said no, she
17 didn't.

18 Q You said no, you did not tell anybody that you had
19 written on those bills, correct?

20 MR. CAMPOS: Objection, your Honor. I believe that
21 mischaracterizes the testimony.

22 MR. DAYAN: Let her answer the question.

23 THE COURT: You don't talk to each other. Address
24 it to me.

25 MR. CAMPOS: It's a mischaracterization of the

1 testimony.

2 THE COURT: Another thing I have to inform you,
3 ladies and gentlemen, what is said up here, it's your
4 recollection that is controlling not mine, not the lawyers.

5 I don't recall exactly what was said, that's why we
6 have a court reporter who takes down everything, and they are
7 quite good, so if during your deliberations you wanted to find
8 out what a witness said on a particular occasion, you'll have
9 the transcript.

10 Ask your question again.

11 MR. DAYAN: Can we read it back?

12 THE COURT: Read what back?

13 MR. DAYAN: The question was -- and she answered
14 it -- the question was whether she had told anybody else, any
15 other agents involved in the investigation of this case,
16 whether she has told them on previous occasions that she in
17 fact had written the word "fake" on those bills?

18 THE COURT: Did you tell anybody that?

19 THE WITNESS: No.

20 Q Are you known by any other aliases?

21 A Drea is my nickname.

22 Q Lorena Cortez, that's not you?

23 A No.

24 MR. DAYAN: I have no further questions. Thank you.

25 THE COURT: All right.

1 REDIRECT EXAMINATION

2 BY MR. CAMPOS:

3 Q On cross-examination, Ms. Lopez, you were asked whether
4 it was unusual for patrons to use large denomination bills to
5 get back change.

6 Do you recall that?

7 A Yes.

8 Q During your tenure as a hostess, was it unusual for you
9 to discover currency that you believed was fake?

10 A Yes.

11 Q How many times had you discovered in your opinion
12 currency that was fake?

13 A I believe this was the only time.

14 MR. CAMPOS: I have no further questions.

15 RECROSS EXAMINATION

16 BY MR. DAYAN:

17 Q That doesn't necessarily mean that you have never
18 received counterfeit currency; correct?

19 A Not that I'm aware of.

20 MR. DAYAN: I have nothing further.

21 THE COURT: You can step down. Thank you very much.
22 (Witness excused.)

23 THE COURT: Another witness.

24 MR. CAMPOS: The government calls David Alvarado.

25

1 DAVID ALVARADO,

2 called as a witness, having been first duly sworn,
3 was examined and testified as follows:

4 MR. CAMPOS: Your Honor, may I inquire --

5 THE COURT: You may.

6 DIRECT EXAMINATION

7 BY MR. CAMPOS:

8 Q Good afternoon, Officer Alvarado. Please state where
9 you're employed.

10 A Scottsdale Police Department in Scottsdale, Arizona.

11 Q And how long have you been employed by the Scottsdale
12 Police Department?

13 A It will be eight years in January.

14 Q In what capacities have you been employed at the Police
15 Department?

16 A As a patrol officer, and currently as a canine officer.

17 THE COURT: A what?

18 THE WITNESS: I became a canine officer.

19 Q Will you please describe for the members of the jury what
20 you mean by a canine officer?

21 A I patrol the streets of Scottsdale with a patrol trained
22 narcotic canine used in detecting narcotics and suspects.

23 Q How long have you been a canine officer?

24 A Four years.

25 Q And you have one police dog that you work with?

1 A Yes, I do.

2 Q And how long were you a patrol officer?

3 A A little over three years.

4 Q During your tenure as a canine officer, did you have a
5 particular geographical area of responsibility?

6 A I typically worked the south Scottsdale area.

7 Q And approximately, if you can estimate, how large an area
8 was that?

9 A I couldn't really tell you because I'm actually
10 responsible for the entire city, but I stayed in that small
11 area, typically.

12 Q How many canine officers are there in Scottsdale?

13 A Six.

14 Q When you're working in your capacity as a canine officer,
15 do you ever work with another person or is it always just a
16 police dog?

17 A Myself and my police dog.

18 Q And is that typically on foot patrol or are you in a car?

19 A No, I'm in a car with the canine.

20 Q Do you wear a uniform?

21 A Yes, I do.

22 Q Are you familiar with an establishment called the Skin
23 Cabaret?

24 A Yes, I am.

25 Q Where is that located?

1 A 1137 North Scottsdale Road, Scottsdale and Bellevue.

2 Q I'm sorry?

3 A Scottsdale and Bellevue Road.

4 Q Scottsdale is a north-south road?

5 A Yes, it is.

6 Q What kind of road -- what direction does Bellevue go?

7 A East-west.

8 Q Does Bellevue intersect with Scottsdale, go straight
9 through?

10 A It does go straight through, but not typically straight.
11 It is actually diagonal to the crossover for Bellevue Road, on
12 the west side of Scottsdale Road.

13 Q Is there any sort of median?

14 A There's a raised median.

15 Q Are you familiar with an establishment called the British
16 Pub?

17 A Yes, I am.

18 Q Where is that located?

19 A On Scottsdale Road, the 1300 block, just south of
20 McDowell and just north of Bellevue.

21 Q About how far away would you estimate the Skin Cabaret is
22 from the British Pub?

23 A Approximately 200 yards.

24 Q I'm going to direct your attention to May 18th of 2006.
25 Were you working that day?

1 A Yes, I was.

2 Q Did you have a particular tour of duty that day?

3 A My normal established duty.

4 Q Which is what?

5 A As a canine officer, anywhere from 1800 hours to
6 0300 hours.

7 Q 1800 hours --

8 A 6 o'clock p.m. to 03, which is 3 o'clock in the morning.

9 Q That would be 3 o'clock in the morning on the 19th,
10 May 19th?

11 A Yes.

12 Q I'm going to direct your attention to about 11:30, 11:40
13 in the evening. Did you respond to any sort of radio call?

14 A Yes, I did.

15 Q Where did you respond to?

16 A The initial radio call was a response to the Skin Cabaret
17 and the dispatcher said that --

18 THE COURT: You can't say what the dispatcher said.
19 You can say what you did.

20 A I responded to the radio call that stated that the
21 suspect had left Skin Cabaret --

22 MR. DAYAN: Objection.

23 THE COURT: Sustained.

24 Q Without telling us --

25 THE COURT: Just a second.

1 You responded to a dispatcher's call; is that
2 correct?

3 THE WITNESS: Yes.

4 THE COURT: And then as a result of that call what,
5 if anything, did you do?

6 THE WITNESS: I responded to the area of Scottsdale
7 and McDowell looking for the suspects.

8 Q Were you in radio communication with any other police
9 officer?

10 A Yes.

11 Q Who?

12 A Officer Burkmeir.

13 Q Did you learn of what Officer Burkmeir was doing?

14 A He was contacting the reporting party who made the
15 initial call.

16 Q What do you mean by that, you mean Skin Cabaret?

17 A Yes.

18 Q And when you learned that he was at the Skin Cabaret,
19 what did you do?

20 A I went to go look for the outstanding suspects to -- who
21 were trying to pass the US currency.

22 Q How many individuals were you looking for?

23 A At the time it was two and then it went down to one.

24 Q And what, if anything, happened next?

25 A I was flagged down by a citizen who stated what --

1 Q Without telling us what he told you. You were flagged
2 down by a person?

3 A Yes.

4 Q Do you know that person's name?

5 A Paul Swanson.

6 THE COURT: Spell the last name.

7 THE WITNESS: S-W-A-N-S-O-N.

8 Q And do you know who Mr. Swanson is?

9 A He works for Skin Cabaret.

10 Q Can you repeat that.

11 Who do you know Mr. Swanson to be?

12 A He works for Skin Cabaret as a driver.

13 Q And did you have a discussion with Mr. Swanson, without
14 telling us what he said?

15 A Yes, I did.

16 Q What was the topic of the discussion?

17 A The individual who left Skin Cabaret and crossed the
18 street.

19 Q What did you do after you had that discussion with Paul
20 Swanson?

21 A I entered the British Pub and looked for the outstanding
22 suspect.

23 Q Did you go into the British Pub alone?

24 A Yes, I did.

25 Q And how did you determine who you were looking for?

1 A Paul Swanson indicated by pointing to a person inside.

2 Q So you went with Paul Swanson?

3 A Yes, I did.

4 Q When you went into the British Pub, was it a crowded
5 establishment?

6 A No, it's a local bar. There were sporadic people inside.

7 Q And you saw Mr. Swanson point to someone?

8 A Yes, I did.

9 Q What did you do?

10 A I walked up to that person and contacted him.

11 Q You spoke to him?

12 A Yes.

13 Q And did you see what that person was doing when you
14 approached him?

15 A Yes. His back was to me. He was drinking a beverage and
16 I believe he was watching a TV that was on the wall.

17 Q Please describe for the members of the jury the layout of
18 the British Pub when you walked in, what do you see?

19 A As you walk in, on the right side is the bar, the tabs
20 are all behind, and then in the middle and the left are chairs
21 and tables for patrons to sit at.

22 Q And the entrance would be then behind you?

23 A Yes.

24 (Continued next page).

25

1 EXAMINATION CONTINUES

2 BY MR. CAMPOS:

3 Q And what -- where did you see that person that
4 Mr. Swanson pointed to?

5 A He was in the back, but in the middle rows of chairs and
6 tables.

7 Q When you say in the back, how far from the entrance was
8 he?

9 A Approximately ten or fifteen feet.

10 Q How far back does the establishment go from the entrance?

11 A Maybe twenty feet. It's not that big of a bar.

12 Q The distance from you, and I say, is -- is that the
13 distance from the front of the door to the back of the
14 establishment?

15 MR. DAYAN: Objection; asked and answered.

16 THE COURT: I will allow it. I don't remember if he
17 answered. I will allow it.

18 A Yes, that's approximate.

19 Q Was the person that Mr. Swanson pointed to, was he alone
20 or with someone else?

21 A He was alone.

22 Q You -- could you see what he was drinking?

23 A I couldn't tell what type of beverage it was. It looked
24 like a beer.

25 Q When you approached that person, what did you see?

1 When you walked up to him, what did you see?

2 A I saw that he was, as described, white T-shirt, with his
3 back -- his back towards me. I turned in front of him and
4 contacted him and said, do you mind walking outside with me.

5 Q Was there a response by that person?

6 A Yes.

7 Q What did he respond?

8 A He said okay.

9 Q Would you recognize that person today?

10 A Yes, I would.

11 Q Would you please take a look around the courtroom and, if
12 you see him, please point him out and identify an article of
13 clothing that he is wearing?

14 A To my left, wearing a T-shirt -- not a T-shirt, but
15 collared shirt, white with the top button unbuttoned.

16 MR. CAMPOS: May the record reflect that the witness
17 has identified the defendant, Your Honor?

18 THE COURT: It may.

19 Q You spoke with the defendant. What did he say initially?

20 A Initially I asked if he was coming from Skin Cabaret. He
21 said he was. He was there with his brother.

22 I asked him what occurred at the cabaret. He said
23 he tried to pay for his bill.

24 Q I'm sorry. He tried to do what?

25 A He tried to pay for his bill.

1 Q Did you ask him what he meant?

2 A Yes.

3 He said he tried to pay \$300 for a bill and they
4 told him that two of his three hundred dollars was -- were
5 counterfeit.

6 Q Did you respond to him?

7 A Yes.

8 Q What did you say?

9 A I asked him if he knew the counterfeit was -- if the
10 money was counterfeit. He said no.

11 Q Did you ask for identification?

12 A Yes?

13 Q Was any identification prepared?

14 A Yes.

15 Q Was any identification presented?

16 A Yes.

17 The New York State driver's license and an alien
18 resident card.

19 Q Did it have a photograph on it?

20 A Yes.

21 Q Did you look at it?

22 A Yes, I did.

23 Q Did it match the person that you were talking to?

24 A Yes, it did.

25 Q That's the defendant?

1 A Yes.

2 Q What was that person's name?

3 A Eduard Yusupov.

4 Q After you got the defendant's identity, what happened
5 next?

6 A We discussed what happened at the Skin Cabaret.

7 Q What did he say?

8 A He said that he tried to pay for the bill and he tried to
9 use \$300 that he -- he received from someone -- that he
10 received from selling a car.

11 Q After you asked those questions and got those answers,
12 did you ask anything else?

13 A Yes.

14 Q What?

15 A I asked him how come he left his brother at the Skin
16 Cabaret.

17 Q Did the defendant answer you?

18 A He said he didn't leave his brother.

19 Q Did he explain that?

20 A No, he did not.

21 Q After -- after that conversation, what did you do?

22 A There was a -- a conversation with -- sorry. We arrested
23 Eduard Yusupov for possession of counterfeit bills.

24 Q Was there any other currency recovered?

25 A Yes; there was a hundred dollar bill that was in his

1 wallet at the time.

2 Q Any other currency recovered?

3 A Not that I know of.

4 Q As far as you know, the -- withdrawn.

5 Did you ask any questions of the defendant about how
6 he paid for the beverage?

7 A Yes.

8 Q What did you ask?

9 A He stated he bought the beverage with a \$20 bill.

10 Q And what, if anything, happened to that \$20 bill, if you
11 know?

12 A I contacted the bartender after the contact with
13 Mr. Yusupov and she stated that he did pay --

14 THE COURT: No. You can't say what she said.

15 THE WITNESS: I'm sorry.

16 Q You spoke with the -- you spoke with the person at the
17 British Pub?

18 A Yes.

19 Q Without telling us what was said, what was the topic of
20 the conversation?

21 A How payment for the beverage was given.

22 Q After you had that conversation, what happened?

23 A I looked at the \$20 bill that was paid for and could not
24 determine if it was counterfeit or not.

25 Q What did you do with that \$20 bill?

1 A I returned it back to the bartender.

2 MR. CAMPOS: I have no further questions, Your
3 Honor.

4 THE COURT: Cross?

5 MR. DAYAN: Yes, please.

6 CROSS-EXAMINATION

7 BY MR. DAYAN:

8 Q Officer, as you sit here today, do you know for sure that
9 it was only one more hundred dollar bill that was found in the
10 possession -- in Eddie's possession?

11 A In his wallet?

12 Q In his wallet.

13 A Yes.

14 Q How about on his person, was there other currency on his
15 person?

16 A I don't know.

17 Q Did you have occasion to search him prior to arresting
18 him?

19 A I did not.

20 Q Did you place the handcuffs on him?

21 A I did not.

22 Q You said that when you spoke to Eddie, he had told you
23 that he was -- he was an owner of Exotic Auto Sales?

24 A Yes.

25 Q Did you confirm that, whether that was true?

1 A No, I didn't.

2 MR. DAYAN: Excuse me.

3 (Pause.)

4 Q Eddie had told you that he --

5 THE COURT: Don't refer to him as Eddie. You are
6 talking about your defendant?

7 MR. DAYAN: Yes.

8 THE COURT: The defendant, Mr. Yusupov. We don't
9 know him like you know him, Eddie.

10 MR. DAYAN: Point well taken, Judge.

11 Q Had Mr. Yusupov -- had told you that he was there with
12 his brother?

13 A Yes.

14 Q And did you confirm whether he was telling the truth
15 about that?

16 A Yes.

17 Q Mr. Yusupov -- did anything Mr. Yusupov tell you on the
18 night in question turn out to be false?

19 A I -- I couldn't prove some of the stuff that he said, so
20 I don't -- I don't know.

21 Q As you sit here today, you did not obtain any evidence
22 that proved that whatever he told you on May 18th, proved to
23 be false?

24 MR. CAMPOS: Objection, Your Honor.

25 THE COURT: Sustained.

1 Q Did you investigate any of the information that he had
2 relayed to you on May 18th?

3 A No.

4 Q You said that when you had spoken to Mr. Yusupov, when
5 you initially approached him and what was your first question
6 to him, do you recall?

7 A Yes.

8 I asked him if he minded to come outside with me and
9 talk.

10 Q He said it was okay?

11 A Yes.

12 Q He didn't seem belligerent in any way?

13 A No.

14 Q Once you were outside, you asked him to identify himself
15 to you?

16 A Yes.

17 Q And he did that?

18 A Yes, he did.

19 Q And he identified himself as a resident -- by his
20 resident alien card that he was -- I'm sorry -- by his
21 New York driver's license, correct?

22 A Yes.

23 Q There came a time when you asked Eduard what had
24 happened, correct?

25 A Correct.

1 Q And Eduard had explained to you that -- withdrawn.

2 You testified earlier that Eduard explained to you
3 that he was trying to pay a bill.

4 Do you remember giving that testimony?

5 A Yes.

6 Q Isn't it true that what Eduard said to you was, that he
7 wasn't -- he was trying to pay admission, not a bill?

8 A No.

9 That's -- I don't know if that's true. I was under
10 the understanding when I talked to him it was for a bill.

11 Q Did he say a bill or is that something you just assumed
12 that it was a bill?

13 A It was my understanding it was for a bill.

14 Q He never said it was for a bill?

15 A Not per se, that it was for a bill, no.

16 Q Do you remember what -- how much -- do you remember what
17 Eddie said about how many bills he tried to pay with?

18 A He said he tried to pay with \$300.

19 Q Were you involved with the -- with the prosecution or
20 possible prosecution of Eduard Yusupov in Arizona?

21 A As involved as -- as we have talked about right now.
22 Nothing further than this, no.

23 Q Nothing further after your arrest, but this testimony
24 here today?

25 A Yes.

1 Q Are you familiar with the fact that the State of Arizona
2 declined to prosecute?

3 MR. CAMPOS: Objection, Your Honor.

4 THE COURT: I am going to allow him to answer.

5 A After I read the report, I saw the decline, yes.

6 Q Mr. Campos, the Assistant United States Attorney here,
7 asked you whether you asked Eddie why he left his brother?

8 A Yes.

9 Q Eduard said to you he didn't leave him?

10 A Correct.

11 Q Mr. Campos asked you whether Eddie explained to you what
12 that meant. You said no.

13 Do you remember that question and answer?

14 A Yes.

15 Q Do you remember asking Eddie what he meant?

16 A Yes.

17 I tried to ask further about that but he would not
18 respond.

19 Q You prepared a report pursuant to this arrest of
20 Mr. Yusupov, right?

21 A Yes.

22 Q Do you remember whether in that report you had indicated
23 that you attempted to follow up with what Eddie meant by that?

24 A I'm sorry? Can you clarify?

25 Q You prepared a narrative report of the incident on

1 May 18th, right?

2 A Yes.

3 Q In that report you had outlined how you approached Eddie,
4 how you saw him drinking a beer, how you spoke to the
5 bartender.

6 Do you remember preparing that report?

7 A Yes.

8 Q And in that report do you remember indicating whether you
9 asked Eddie to explain what he meant?

10 A Did I write that down in the report? No.

11 Q You do remember writing down everything else you
12 testified to here today?

13 A Yes.

14 Q Except for that one part, when you asked him -- when you
15 apparently -- when you allegedly asked him to explain what he
16 meant?

17 A I asked him. I didn't write it down because there was no
18 response.

19 Q So you didn't write it down because there was no
20 response?

21 A Correct.

22 Q You wouldn't write down in that report, I asked but the
23 target or the suspected person refused to answer?

24 MR. CAMPOS: Objection.

25 THE COURT: Sustained.

1 Q Prior to your testimony here today, you spoke to
2 Mr. Campos about your testimony, correct?

3 A Correct.

4 Q You discussed the questions and the answers that you guys
5 were going to go between -- go back and forth between each
6 other, correct?

7 A Correct.

8 Q You and I never had that opportunity?

9 A No.

10 MR. DAYAN: I have nothing further.

11 Thank you.

12 MR. CAMPOS: Nothing, Your Honor.

13 THE COURT: You can step down.

14 MR. CAMPOS: Your Honor, may we approach?

15 THE COURT: Go ahead.

16 (Continued on next page.)

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1 (Side bar.)

2 MR. CAMPOS: Your Honor, these are the three Arizona
3 witnesses that I mentioned to the Court that we were prepared
4 to go with.

5 THE COURT: Do you have more witnesses?

6 MR. CAMPOS: I do have more witnesses.

7 Given the brevity of the jury selection, they are
8 not here. We have a whole -- everyone will be here tomorrow.
9 The defense counsel and I have to go through that request that
10 he has so that we can --

11 THE COURT: Bottom line is, you are asking to finish
12 up?

13 MR. CAMPOS: Yes.

14 MR. DAYAN: Bottom line, Judge, I have no objection
15 at all.

16 THE COURT: Okay. Let's get tomorrow -- I work
17 fast, as you know.

18 MR. CAMPOS: Your Honor, you are faster than the
19 first felony trial I tried with Judge Edwin Torres, who has a
20 nickname about being fast.

21 THE COURT: Fast Eddie. How is he doing? Retired.

22 MR. CAMPOS: I think he is retired.

23 THE COURT: Yes.

24 MR. CAMPOS: My first felony trial was with him and
25 you are faster.

1 THE COURT: He is a good man. Okay.

2 We will see you tomorrow.

3 MR. DAYAN: Yes, thank you, Judge.

4 (In open court.)

5 THE COURT: What usually happens, ladies and
6 gentlemen, what I do with my trials is that we will start out
7 in the morning, I will give you a nature break. In the
8 afternoon I will give you a nature break. In-between the two
9 nature breaks, you get your lunch hour.

10 We have run out of witnesses so I am going to give
11 you an early release today.

12 We have to start tomorrow morning at 9:30 sharp. If
13 one person is missing, you are going to hold it up for
14 everybody. Be here at 9:30 in the morning. We will have a
15 lot of witnesses. We are going to have a lot of testimony.

16 We are moving right along and in a couple of days
17 maybe we will finish up.

18 Do not discuss the case with anyone, wife,
19 significant other, husband, boyfriend. You can't even discuss
20 it with each other, until I tell you to.

21 Keep an open mind and I will see you tomorrow
22 morning, God willing.

23 Okay. Have a nice night.

24 (The following occurred in the absence of the jury.)

25 THE COURT: How many witnesses for tomorrow?

1 MR. CAMPOS: Depending on whether or not Mr. Dayan
2 can stipulate as to telephone company witnesses, we ought to
3 have 7.

4 THE COURT: Okay.

5 (Whereupon, recess taken until 9:30, September 16,
6 2008.)

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